Supreme Court, U. S.
FILED
MAY 2 1975
MICHAEL RODAK, JR., CLERK

APPENDIX

IN THE

Supreme Court of the United States

OCTOBER TERM, 1974

No. 74-759

UNITED STATES OF AMERICA,
Petitioner

—v.—

THOMAS W. MOORE, JR.

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

PETITION FOR A WRIT OF CERTIORARI FILED DECEMBER 17, 1974
CERTIORARI GRANTED FEBRUARY 18, 1975

IN THE

Supreme Court of the United States

OCTOBER TERM, 1974

No. 74-759

UNITED STATES OF AMERICA,

Petitioner

—v.—

THOMAS W. MOORE, JR.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

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* A copy of the opinion of the United States Court of Appeals for the District of Columbia Circuit was filed as Appendix A to the petition for a writ of certiorari (pp. 1a-48a). The judgment of the court of appeals was reproduced as Appendix B to the petition (pp. 49a-50a).

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Criminal No. 1350-72

UNITED STATES

—v.—

THOMAS W. MOORE, JR.

RELEVANT DOCKET ENTRIES

DATE	PROCEEDINGS
1972	
	* * * *
July 13	Deft. handed copy of Indictment. ARRAIGNED: Plea Not Guilty.
	* * * *
Sept 5	Motion to suppress & for return of property. C/S P/A FIAT—GESELL,
Sept 12	Status Conference: Trial is set for 10-16-72 at 9:30 A.M.; Bond. GESELL, J. Rep-Harper; Edwin Brown; Atty.
Sept 14	Govt's opposition to Motion to suppress. C/S
Sept 21	Transcript of proceedings of Sept. 12, 1972; pages 1-12; Court's Rep-P. Harper
Sept 25	ORDER denying motion of deft. to suppress and for return of prop GESELL, J. (N)
Sept 26	Govt's notice of intention to sever counts c/s
	* * * *
Oct 16	Retyped indictment filed.; Motion of Govt to sever counts, Granted; Case called for trial.
	* * * *

DATE	PROCEEDINGS
1972	
Oct 21	Trial resumed * * *, VERDICT: GUILTY on Counts 3, 5, 7, 8, 9, 13, 14, 16, 17, 18, 20, 21, 23, 24, 25, 27, 29, 30, 31, 32, 35 & 37 of the retyped indictment
	* * * *
Nov 20	Notice of appeal from sentence of Nov. 13, 1972.
	* * * *

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Holding a Criminal Term

Grand Jury Sworn in on April 3, 1972

THE UNITED STATES OF AMERICA

v.

THOMAS W. MOORE, JR.

Criminal No.

U. S. Mag. No. 22-531-72

Violation: 21 U.S.C. 841(a)

(Unlawful Distribution and Dispensation of Controlled Substance)

The Grand Jury charges:

COUNTS 1 THROUGH 35

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II, narcotic drug controlled substance to, Bobby J. King, as follows:

COUNT	DATE	AMOUNT OF TABLETS
1	September 27, 1971	50
2	October 4, 1971	50
3	October 12, 1971	50
4	October 16, 1971	50
5	October 26, 1971	50
6	October 29, 1971	50
7	October 31, 1971	100
8	November 6, 1971	50
9	November 8, 1971	50
10	November 12, 1971	50

COUNT	DATE	AMOUNT OF TABLETS
11	November 17, 1971	50
12	November 22, 1971	50
13	November 24, 1971	50
14	November 29, 1971	50
15	December 1, 1971	50
16	December 3, 1971	50
17	December 6, 1971	100
18	December 9, 1971	50
19	December 11, 1971	100
20	December 14, 1971	100
21	December 16, 1971	100
22	December 17, 1971	100
23	January 5, 1972	50
24	January 5, 1972	50
25	January 10, 1972	50
26	January 10, 1972	50
27	January 17, 1972	100
28	January 19, 1972	100
29	January 21, 1972	100
30	January 25, 1972	50
31	January 26, 1972	100
32	January 28, 1972	50
33	February 1, 1972	50
34	February 4, 1972	100
35	February 8, 1972	100

COUNTS 36 THROUGH 77

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule

II, narcotic drug controlled substance to, James Silk, as follows:

COUNT	DATE	AMOUNT OF TABLETS
36	August 27, 1971	50
37	August 30, 1971	75
38	September 2, 1971	100
39	September 3, 1971	50
40	September 24, 1971	50
41	September 27, 1971	100
42	September 28, 1971	75
43	October 4, 1971	50
44	October 6, 1971	50
45	October 8, 1971	50
46	October 12, 1971	100
47	October 16, 1971	100
48	October 19, 1971	60
49	October 21, 1971	100
50	October 25, 1971	100
51	October 28, 1971	100
52	October 30, 1971	100
53	November 1, 1971	100
54	November 6, 1971	100
55	November 8, 1971	100
56	November 15, 1971	100
57	November 17, 1971	100
58	November 19, 1971	75
59	November 24, 1971	50
60	November 29, 1971	100
61	December 3, 1971	100
62	December 10, 1971	100
63	December 11, 1971	50
64	December 13, 1971	100
65	December 17, 1971	100
66	December 20, 1971	100
67	December 21, 1971	150

COUNT	DATE	AMOUNT OF TABLETS
68	December 23, 1971	150
69	January 7, 1972	150
70	January 10, 1972	100
71	January 12, 1972	100
72	January 14, 1972	100
73	January 25, 1972	100
74	January 26, 1972	100
75	January 28, 1972	100
76	February 4, 1972	100
77	February 8, 1972	150

COUNTS 78 THROUGH 86

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II narcotic drug controlled substance to Carol Timmons, as follows:

COUNT	DATE	AMOUNT OF TABLETS
78	August 30, 1971	50
79	September 2, 1971	50
80	September 3, 1971	50
81	September 24, 1971	50
82	September 27, 1971	50
83	September 28, 1971	50
84	October 6, 1971	50
85	October 8, 1971	50
86	October 12, 1971	50

COUNTS 87 THROUGH 111

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II narcotic drug controlled substance to, Dennis Kelly, as follows:

COUNT	DATE	AMOUNT OF TABLETS
87	November 1, 1971	50
88	November 8, 1971	50
89	November 16, 1971	50
90	November 19, 1971	75
91	November 22, 1971	100
92	November 24, 1971	100
93	November 29, 1971	100
94	December 1, 1971	100
95	December 3, 1971	100
96	December 8, 1971	75
97	December 10, 1971	100
98	December 16, 1971	50
99	December 17, 1971	100
100	December 20, 1971	100
101	January 5, 1972	100
102	January 7, 1972	100
103	January 11, 1972	100
104	January 13, 1972	100
105	January 17, 1972	100
106	January 19, 1972	100
107	January 21, 1972	100
108	January 25, 1972	100
109	January 28, 1972	100
110	January 31, 1972	100
111	February 4, 1972	100

COUNTS 112 THROUGH 115

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlaw-

fully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II narcotic drug controlled substance to, Karen Bryan, also known as Lynn A. Ryan, as follows:

COUNT	DATE	AMOUNT OF TABLETS
112	February 2. 1972	50
113	February 4, 1972	50
114	February 8, 1972	100
115	February 9, 1972	150

COUNTS 116 THROUGH 146

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II narcotic drug controlled substance to, Ivan Gower, as follows:

COUNT	DATE	AMOUNT OF TABLETS
116	September 3, 1971	100
117	September 20, 1971	100
118	September 24, 1971	100
119	September 27, 1971	50
120	October 4, 1971	50
121	October 6, 1971	75
122	October 8, 1971	50
123	October 11, 1971	50
124	October 18, 1971	100
125	October 20, 1971	50
126	October 26, 1971	75
127	October 28, 1971	50
128	November 1, 1971	50
129	November 4, 1971	50
130	November 6, 1971	100
131	November 9, 1971	100

COUNT	DATE	AMOUNT OF TABLETS
132	November 12, 1971	50
133	November 15, 1971	100
134	November 17, 1971	75
135	December 20, 1971	75
136	December 22, 1971	100
137	January 10, 1972	100
138	January 13, 1972	50
139	January 14, 1972	50
140	January 18, 1972	100
141	January 24, 1972	50
142	January 26, 1972	100
143	January 28, 1972	50
144	January 31, 1972	100
145	February 4, 1972	100
146	February 7, 1972	100

COUNTS 147 THROUGH 172

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II narcotic drug controlled substance to, Forris Ensor, as follows:

COUNT	DATE	AMOUNT OF TABLETS
147	August 27, 1971	100
148	September 2, 1971	100
149	September 7, 1971	100
150	September 24, 1971	100
151	September 29, 1971	100
152	October 4, 1971	100
153	October 8, 1971	100
154	October 15, 1971	100
155	October 26, 1971	100

COUNT	DATE	AMOUNT OF TABLETS
156	October 28, 1971	100
157	November 3, 1971	100
158	November 10, 1971	100
159	November 12, 1971	100
160	November 17, 1971	100
161	November 19, 1971	100
162	November 24, 1971	100
163	November 29, 1971	100
164	December 3, 1971	100
165	December 6, 1971	100
166	December 10, 1971	100
167	December 13, 1971	100
168	December 17, 1971	100
169	December 20, 1971	100
170	December 22, 1971	75
171	December 27, 1971	100
172	January 4, 1972	100

COUNTS 173 THROUGH 195

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligrams dolophine tablets, a Schedule II narcotic drug controlled substance to, Raymond Bowings, as follows:

COUNT	DATE	AMOUNT OF TABLETS
173	September 29, 1971	50
174	October 1, 1971	100
175	October 6, 1971	100
176	October 11, 1971	100
177	October 18, 1971	100
178	October 27, 1971	100
179	October 30, 1971	100

COUNT	DATE	AMOUNT OF TABLETS
180	November 5, 1971	100
181	November 12, 1971	100
182	November 16, 1971	100
183	November 23, 1971	100
184	November 29, 1971	100
185	December 7, 1971	100
186	December 11, 1971	100
187	December 18, 1971	100
188	January 5, 1972	100
189	January 10, 1972	100
190	January 18, 1972	100
191	January 21, 1972	100
192	January 24, 1972	100
193	January 31, 1972	100
194	February 3, 1972	100
195	February 9, 1972	100

COUNTS 196 THROUGH 244

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II narcotic drug controlled substance to, Chris Scheper, as follows:

COUNT	DATE	AMOUNT OF TABLETS
196	September 3, 1971	50
197	September 27, 1971	50
198	September 29, 1971	75
199	October 20, 1971	60
200	October 4, 1971	50
201	October 6, 1971	50
202	October 8, 1971	50
203	October 12, 1971	50

COUNT	DATE	AMOUNT OF TABLETS
204	October 14, 1971	75
205	October 18, 1971	50
206	October 22, 1971	50
207	October 25, 1971	50
208	October 27, 1971	100
209	October 29, 1971	50
210	November 1, 1971	50
211	November 3, 1971	50
212	November 5, 1971	75
213	November 8, 1971	50
214	November 10, 1971	50
215	November 12, 1971	50
216	November 15, 1971	50
217	November 17, 1971	50
218	November 19, 1971	50
219	November 22, 1971	50
220	November 24, 1971	50
221	November 29, 1971	50
222	December 1, 1971	50
223	December 3, 1971	50
224	December 6, 1971	50
225	December 8, 1971	50
226	December 10, 1971	50
227	December 13, 1971	50
228	December 15, 1971	50
229	December 17, 1971	50
230	December 20, 1971	50
231	December 22, 1971	50
232	December 23, 1971	50
233	January 6, 1972	50
234	January 10, 1972	50
235	January 12, 1972	50
236	January 14, 1972	100
237	January 17, 1972	50

COUNT	DATE	AMOUNT OF TABLETS
238	January 19, 1972	50
239	January 21, 1972	50
240	January 25, 1972	50
241	January 27, 1972	50
242	January 31, 1972	100
243	February 2, 1972	50
244	February 7, 1972	50

COUNTS 245 THROUGH 278

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II narcotic drug controlled substance to, Herbert Bruce Holland, as follows:

COUNT	DATE	AMOUNT OF TABLETS
245	August 30, 1971	100
246	September 3, 1971	100
247	September 20, 1971	75
248	September 28, 1971	50
249	October 12, 1971	50
250	October 18, 1971	50
251	October 23, 1971	75
252	October 29, 1971	50
253	November 3, 1971	75
254	November 6, 1971	100
255	November 10, 1971	50
256	November 16, 1971	75
257	November 20, 1971	100
258	November 29, 1971	100
259	December 3, 1971	100
260	December 9, 1971	100
261	December 11, 1971	100

COUNT	DATE	AMOUNT OF TABLETS
262	December 14, 1971	75
263	December 17, 1971	50
264	December 20, 1971	100
265	December 21, 1971	50
266	December 23, 1971	50
267	December 24, 1971	150
268	January 5, 1972	75
269	January 6, 1972	50
270	January 10, 1972	100
271	January 14, 1972	100
272	January 18, 1972	100
273	January 21, 1972	100
274	January 28, 1972	50
275	January 31, 1972	50
276	February 2, 1972	100
277	February 8, 1972	100
278	February 9, 1972	100

COUNTS 279 THROUGH 283

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II narcotic drug controlled sustance to, Stephen Franklin, as follows:

COUNT	DATE	AMOUNT OF TABLETS
279	January 12, 1972	50
280	January 21, 1972	100
281	January 28, 1972	100
282	February 2, 1972	150
283	February 9, 1972	200

COUNTS 284 THROUGH 331

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II narcotic drug controlled substance to Roger Wheeler, as follows:

COUNT	DATE	AMOUNT OF TABLETS
284	August 26, 1971	50
285	August 30, 1971	50
286	September 3, 1971	100
287	September 28, 1971	50
288	October 1, 1971	50
289	October 4, 1971	50
290	October 7, 1971	50
291	October 8, 1971	50
292	October 11, 1971	50
293	October 14, 1971	50
294	October 18, 1971	50
295	October 20, 1971	50
296	October 23, 1971	50
297	October 26, 1971	50
298	October 29, 1971	50
299	November 1, 1971	50
300	November 3, 1971	50
301	November 8, 1971	50
302	November 10, 1971	50
303	November 15, 1971	50
304	November 17, 1971	50
305	November 19, 1971	50
306	November 22, 1971	50
307	November 24, 1971	50
308	November 29, 1971	50
309	December 1, 1971	50

COUNT	DATE	AMOUNT OF TABLETS
310	December 3, 1971	50
311	December 6, 1971	50
312	December 8, 1971	50
313	December 10, 1971	50
314	December 13, 1971	50
315	December 15, 1971	50
316	December 17, 1971	50
317	December 20, 1971	50
318	December 22, 1971	50
319	December 23, 1971	50
320	December 24, 1971	50
321	December 28, 1971	50
322	January 10, 1972	100
323	January 12, 1972	50
324	January 14, 1972	50
325	January 19, 1972	50
326	January 21, 1972	50
327	January 24, 1972	50
328	January 26, 1972	50
329	January 27, 1972	50
330	February 1, 1972	50
331	February 4, 1972	50

COUNTS 332 THROUGH 358

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II narcotic drug controlled substance to, Robert Cerniglia, as follows:

COUNT	DATE	AMOUNT OF TABLETS
332	November 2, 1971	100
333	November 16, 1971	50

COUNT	DATE	AMOUNT OF TABLETS
334	November 20, 1971	75
335	November 23, 1971	75
336	November 30, 1971	50
337	December 4, 1971	75
338	December 8, 1971	50
339	December 9, 1971	50
340	December 11, 1971	50
341	December 14, 1971	50
342	December 18, 1971	75
343	December 22, 1971	75
344	December 24, 1971	50
345	January 5, 1972	75
346	January 7, 1972	50
347	January 10, 1972	75
348	January 13, 1972	75
349	January 17, 1972	100
350	January 20, 1972	100
351	January 21, 1972	50
352	January 24, 1972	75
353	January 27, 1972	50
354	January 28, 1972	75
355	January 31, 1972	100
356	February 2, 1972	100
357	February 4, 1972	100
358	February 8, 1972	150

COUNTS 359 THROUGH 360

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule

II narcotic drug controlled substance to, Richard L. Jacob, also known as Lloyd Johnson, as follows:

COUNT	DATE	AMOUNT OF TABLETS
359	January 26, 1972	50
360	January 31, 1972	100

COUNTS 361 THROUGH 393

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II narcotic drug controlled substance to, Robert Fennell, as follows:

COUNT	DATE	AMOUNT OF TABLETS
361	October 1, 1971	50
362	October 6, 1971	50
363	October 14, 1971	50
364	October 16, 1971	100
365	October 20, 1971	100
366	October 27, 1971	50
367	October 29, 1971	50
368	November 5, 1971	100
369	November 8, 1971	50
370	November 12, 1971	100
371	November 16, 1971	100
372	November 20, 1971	100
373	November 24, 1971	100
374	November 29, 1971	100
375	December 3, 1971	100
376	December 9, 1971	100
377	December 11, 1971	100
378	December 14, 1971	50
379	December 15, 1971	100
380	December 17, 1971	100

COUNT	DATE	AMOUNT OF TABLETS
381	December 20, 1971	100
382	December 23, 1971	100
383	December 24, 1971	100
384	January 5, 1972	100
385	January 6, 1972	100
386	January 10, 1972	100
387	January 18, 1972	100
388	January 20, 1972	100
389	January 24, 1972	100
390	January 27, 1972	100
391	January 31, 1972	100
392	February 3, 1972	100
393	February 9, 1972	100

COUNTS 394 THROUGH 420

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II narcotic drug controlled substance to, John J. Evans, as follows:

COUNT	DATE	AMOUNT OF TABLETS
394	October 22, 1971	50
395	October 27, 1971	50
396	November 16, 1971	50
397	November 23, 1971	100
398	November 29, 1971	50
399	December 1, 1971	75
400	December 3, 1971	75
401	December 6, 1971	75
402	December 10, 1971	100
403	December 13, 1971	75
404	December 15, 1971	75

COUNT	DATE	AMOUNT OF TABLETS
405	December 17, 1971	50
406	December 22, 1971	50
407	January 7, 1972	50
408	January 10, 1972	75
409	January 12, 1972	100
410	January 14, 1972	100
411	January 17, 1972	50
412	January 19, 1972	50
413	January 21, 1972	50
414	January 24, 1972	75
415	January 26, 1972	50
416	January 28, 1972	100
417	January 31, 1972	75
418	February 2, 1972	100
419	February 4, 1972	100
420	February 9, 1972	75

COUNTS 421 THROUGH 426

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II narcotic drug controlled substance to, William N. Burgee, as follows:

COUNT	DATE	AMOUNT OF TABLETS
421	January 25, 1972	50
422	January 28, 1972	100
423	February 1, 1972	150
424	February 2, 1972	100
425	February 7, 1972	150
426	February 9, 1972	150

COUNTS 427 THROUGH 452

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II narcotic drug controlled substance to, Elmer Daniel, as follows:

COUNT	DATE	AMOUNT OF TABLETS
427	October 11, 1971	100
428	October 15, 1971	50
429	October 18, 1971	75
430	October 20, 1971	75
431	October 22, 1971	75
432	October 27, 1971	75
433	November 3, 1971	75
434	November 10, 1971	100
435	November 15, 1971	50
436	November 18, 1971	50
437	November 20, 1971	75
438	November 23, 1971	75
439	November 29, 1971	75
440	December 2, 1971	100
441	December 4, 1971	100
442	December 10, 1971	100
443	December 14, 1971	100
444	December 17, 1971	100
445	December 21, 1971	75
446	December 23, 1971	100
447	December 24, 1971	100
448	January 7, 1972	75
449	January 10, 1972	50
450	January 25, 1972	75
451	January 27, 1972	75
452	February 7, 1972	100

COUNTS 453 THROUGH 455

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II narcotic drug controlled substance to, William Miller, as follows:

COUNT	DATE	AMOUNT OF TABLETS
453	January 13, 1972	50
454	January 18, 1972	100
455	January 24, 1972	100

COUNTS 456 THROUGH 503

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II narcotic drug controlled substance to, John Amtmann, as follows:

COUNT	DATE	AMOUNT OF TABLETS
456	September 1, 1971	50
457	September 10, 1971	50
458	September 20, 1971	75
459	October 8, 1971	75
460	October 11, 1971	100
461	October 14, 1971	110
462	October 18, 1971	100
463	October 21, 1971	75
464	October 25, 1971	50
465	October 28, 1971	50
466	October 29, 1971	100
467	November 2, 1971	100
468	November 4, 1971	100

COUNT	DATE	AMOUNT OF TABLETS
469	November 8, 1971	50
470	November 13, 1971	100
471	November 15, 1971	75
472	November 17, 1971	50
473	November 19, 1971	100
474	November 22, 1971	100
475	November 24, 1971	75
476	November 29, 1971	75
477	December 1, 1971	75
478	December 3, 1971	75
479	December 6, 1971	75
480	December 8, 1971	100
481	December 10, 1971	50
482	December 13, 1971	100
483	December 15, 1971	50
484	December 17, 1971	100
485	December 20, 1971	100
486	December 21, 1971	100
487	December 24, 1971	100
488	December 28, 1971	100
489	January 5, 1972	100
490	January 7, 1972	100
491	January 10, 1972	100
492	January 12, 1972	100
493	January 14, 1972	100
494	January 17, 1972	100
495	January 19, 1972	100
496	January 21, 1972	100
497	January 24, 1972	100
498	January 26, 1972	100
499	January 28, 1972	150
500	January 31, 1972	150
501	February 2, 1972	150
502	February 4, 1972	100
503	February 9, 1972	150

COUNTS 504 THROUGH 519

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II narcotic drug controlled substance to, Jerome Brooks, as follows:

COUNT	DATE	AMOUNT OF TABLETS
504	September 30, 1971	50
505	October 16, 1971	50
506	November 2, 1971	50
507	November 4, 1971	50
508	November 8, 1971	75
509	November 12, 1971	75
510	November 16, 1971	75
511	November 23, 1971	50
512	December 8, 1971	100
513	December 14, 1971	50
514	December 22, 1971	100
515	December 23, 1971	50
516	January 14, 1972	100
517	January 20, 1972	100
518	January 27, 1972	50
519	February 9, 1972	50

COUNTS 520 THROUGH 548

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule

II narcotic drug controlled substance to, John Gately, as follows:

COUNT	DATE	AMOUNT OF TABLETS
520	August 27, 1971	50
521	September 3, 1971	100
522	September 28, 1971	75
523	October 4, 1971	50
524	October 7, 1971	100
525	October 11, 1971	50
526	October 15, 1971	50
527	October 22, 1971	100
528	October 26, 1971	75
529	October 30, 1971	75
530	November 2, 1971	100
531	November 6, 1971	50
532	November 10, 1971	75
533	November 15, 1971	75
534	November 20, 1971	50
535	November 24, 1971	75
536	November 30, 1971	50
537	December 4, 1971	75
538	December 8, 1971	75
539	December 13, 1971	100
540	December 18, 1971	75
541	December 22, 1971	75
542	December 24, 1971	100
543	January 5, 1972	75
544	January 12, 1972	75
545	January 18, 1972	75
546	January 26, 1972	75
547	February 1, 1972	75
548	February 8, 1972	75

COUNTS 549 THROUGH 576

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II narcotic drug controlled substance to, Robert Povleski, as follows:

COUNT	DATE	AMOUNT OF TABLETS
549	August 26, 1971	100
550	September 2, 1971	100
551	September 8, 1971	100
552	September 20, 1971	75
553	September 27, 1971	75
554	October 1, 1971	100
555	October 12, 1971	100
556	October 15, 1971	100
557	October 22, 1971	100
558	October 25, 1971	75
559	October 29, 1971	100
560	November 2, 1971	100
561	November 5, 1971	100
562	November 9, 1971	100
563	November 12, 1971	100
564	November 16, 1971	100
565	November 19, 1971	100
566	November 22, 1971	100
567	November 24, 1971	100
568	November 30, 1971	100
569	December 3, 1971	100
570	December 7, 1971	100
571	December 10, 1971	100
572	December 13, 1971	100
573	December 17, 1971	100
574	December 20, 1971	100

COUNT	DATE	AMOUNT OF TABLETS
575	December 22, 1971	50
576	December 24, 1971	150

COUNTS 577 THROUGH 606

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II narcotic drug controlled substance to, James B. Frazier, as follows:

COUNT	DATE	AMOUNT OF TABLETS
577	August 27, 1971	50
578	September 3, 1971	75
579	September 27, 1971	75
580	October 1, 1971	75
581	October 4, 1971	75
582	October 8, 1971	50
583	October 12, 1971	75
584	October 15, 1971	75
585	October 18, 1971	100
586	October 20, 1971	50
587	October 23, 1971	50
588	October 26, 1971	50
589	October 30, 1971	50
590	November 4, 1971	50
591	November 8, 1971	50
592	November 17, 1971	50
593	November 22, 1971	50
594	November 29, 1971	50
595	November 30, 1971	50
596	December 3, 1971	100
597	December 13, 1971	50
598	December 20, 1971	100

COUNT	DATE	AMOUNT OF TABLETS
599	January 7, 1972	100
600	January 11, 1972	50
601	January 17, 1972	75
602	January 21, 1972	100
603	January 25, 1972	75
604	February 1, 1972	50
605	February 4, 1972	50
606	February 7, 1972	75

COUNTS 607 THROUGH 639

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II narcotic drug controlled substance to, Dennis Smith, as follows:

COUNT	DATE	AMOUNT OF TABLETS
607	August 30, 1971	75
608	September 2, 1971	50
609	September 24, 1971	50
610	September 28, 1971	50
611	October 1, 1971	50
612	October 4, 1971	50
613	October 8, 1971	50
614	October 12, 1971	50
615	October 15, 1971	50
616	October 18, 1971	50
617	October 22, 1971	75
618	October 26, 1971	50
619	October 29, 1971	100
620	November 2, 1971	50
621	November 5, 1971	50
622	November 8, 1971	50

COUNT	DATE	AMOUNT OF TABLETS
623	November 11, 1971	50
624	November 16, 1971	50
625	November 19, 1971	50
626	November 24, 1971	75
627	November 29, 1971	50
628	December 1, 1971	50
629	December 4, 1971	50
630	December 14, 1971	50
631	December 16, 1971	50
632	December 22, 1971	50
633	December 24, 1971	75
634	January 7, 1972	50
635	January 12, 1972	50
636	January 17, 1972	50
637	January 26, 1972	75
638	February 1, 1972	50
639	February 9, 1972	100

A TRUE BILL:

/s/ John Valdemar Reistrug
Foreman

/s/ Harold H. Titus, Jr.
Attorney of the United States in
and for the District of Columbia

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Holding a Criminal Term

Grand Jury Sworn in on April 3, 1972

THE UNITED STATES OF AMERICA

v.

THOMAS W. MOORE, JR.

Criminal No. 1350-72

U. S. Mag. No. 22-531-72

Violation: 21 U.S.C. 841(a)

(Unlawful Distribution and Dispensation of Controlled Substance)

The Grand Jury charges:

COUNTS 1 THROUGH 5

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II, narcotic drug controlled substance to, Bobby J. King, as follows:

COUNT	DATE	AMOUNT OF TABLETS
1	September 27, 1971	50
2	January 5, 1972	50
3	January 5, 1972	50
4	January 10, 1972	50
5	January 10, 1972	50

COUNTS 6 THROUGH 9

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified

amounts of 10 milligram dolophine tablets, a Schedule II narcotic drug controlled substance to, Karen Bryan, also known as Lynn A. Ryan, as follows:

COUNT	DATE	AMOUNT OF TABLETS
6	February 2, 1972	50
7	February 4, 1972	50
8	February 8, 1972	100
9	February 9, 1972	150

COUNTS 10 THROUGH 14

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II narcotic drug controlled substance to, Ivan Gower, as follows:

COUNT	DATE	AMOUNT OF TABLETS
10	September 3, 1971	100
11	January 28, 1972	50
12	January 31, 1972	100
13	February 4, 1972	100
14	February 7, 1972	100

COUNTS 15 THROUGH 18

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II narcotic drug controlled substance to Forris Ensor, as follows:

COUNT	DATE	AMOUNT OF TABLETS
15	August 27, 1971	100
16	November 17, 1971	100

COUNT	DATE	AMOUNT OF TABLETS
17	November 19, 1971	100
18	January 4, 1972	100

COUNTS 19 THROUGH 21

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II narcotic drug controlled substance to, Herbert Bruce Holland, as follows:

COUNT	DATE	AMOUNT OF TABLETS
19	August 30, 1971	100
20	February 8, 1972	100
21	February 9, 1972	100

COUNTS 22 THROUGH 26

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II narcotic drug controlled substance to Roger Wheeler, as follows:

COUNT	DATE	AMOUNT OF TABLETS
22	August 26, 1971	50
23	December 22, 1971	50
24	December 23, 1971	50
25	December 24, 1971	50
26	February 4, 1972	50

COUNTS 27 THROUGH 32

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II narcotic drug controlled substance to William N. Burgee, as follows:

COUNT	DATE	AMOUNT OF TABLETS
27	January 25, 1972	50
28	January 28, 1972	100
29	February 1, 1972	150
30	February 2, 1972	100
31	February 7, 1972	150
32	February 9, 1972	150

COUNTS 33 THROUGH 34

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II narcotic drug controlled substance to, Jerome Brooks, as follows:

COUNT	DATE	AMOUNT OF TABLETS
33	September 30, 1971	50
34	February 9, 1972	50

COUNTS 35 THROUGH 38

On or about the dates hereinafter specified for each count, THOMAS W. MOORE, JR., the defendant herein, within the District of Columbia, knowingly and unlawfully distributed and dispensed the hereinafter specified amounts of 10 milligram dolophine tablets, a Schedule II narcotic drug controlled substance to, James B. Frazier, as follows:

COUNT	DATE	AMOUNT OF TABLETS
35	August 27, 1971	50
36	February 1, 1972	50

COUNT	DATE	AMOUNT OF TABLETS
37	February 4, 1972	50
38	February 7, 1972	75

A TRUE BILL:

_____

Foreman

_____

Attorney of the United States in
and for the District of Columbia

[TRANSCRIPT OF SEPTEMBER 12]

• • • •

[5] THE COURT: Now, the other matter that we have apart from discovery—and, I assume Dr. Moore and his counsel have complete discovery—The problem that I have is that I think that the defense is entitled to a more explicit statement of the theory of your case.

[6] MR. ALTO: Yes, your honor. I would be glad to do that.

THE COURT: Would it be best to do that by way of a Bill of Particulars, or would it be best to do that by some oral statement, or how do you want to do that?

MR. ALTO: I expressed to Mr. Brown my theory of the case over the telephone yesterday.

THE COURT: You see, the Court kind of wants to be in on it, too, since I have to try it.

MR. ALTO: Yes. I would like to tell your Honor the theory of the case. I will start at the end first and then trace it back to the beginning. I don't want to appear to be too basic with the Court.

The theory of the Government's case is that the doctor was conducting methadone maintenance when he wasn't authorized to, contrary to law.

THE COURT: Not authorized by statute.

MR. ALTO: Not authorized by statute and not authorized by registration with the Federal Food and Drug Administration.

THE COURT: That is a regulation requirement or statutory requirement?

MR. ALTO: Well, I started at the end, and that is the reason I would like to go a little bit back to the beginning, because it is a little complicated in the sense of the [7] statute.

Of course, we have the Controlled Substance Act statute dealing with these regulations. We have exceptions within that statute as it applies to particular scientists. One of the scientists is, of course, a medical doctor, who can, if he is registered with the appropriate federal agency, dispense the controlled drugs within the course of his professional practice.

The statute also provides that the Attorney General of the United States has the authority to promulgate rules and regulations governing these registrations.

There are two types of registrations a doctor can get. One is with the BNDD, which is a registration to give out prescriptions solely for the purpose of detoxifying with respect to methadone.

The second registration is called an IND registration, which is one obtained by a doctor with the Federal Food and Drug Administration. IND means investigation of new drug. And, that is a registration that entitles a doctor to conduct methadone maintenance.

In Dr. Moore's case, the evidence would show—I proffer this—that his IND registration was revoked prior to the dates alleged in the indictment. He still retained during the time of the dates in the indictment until the present [8] date his registration with BNDD authorizing him to give out prescriptions.

Now, with respect to the regulation that governs the registration or scope of the registration that he had, I refer your Honor to the Attorney General's rules and regulations cited in the Federal Register, Volume 36, Number 80, dated April 24, 1971, Part II. On Page 7799 the regulations go into the governing rules with respect to prescriptions. And, the Government would rely on the Section numbered 306.04. And, the two main sections or the two main parts of that section that apply to this case, that is, the specific theories of the Government's case, is section (a) which states in part: "A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner, acting in the usual course of his professional practice."

It is the Government's contention and theory that the conduct by Dr. Moore in giving out these prescriptions was not for a legitimate medical purpose, and secondly, that he was not acting in the usual course of his professional practice.

The second aspect of that regulation is part (c), which states in part: "A prescription may not be issued for the dispensing of narcotic drugs to a drug addict for the

purposes of continuing his dependence upon such drugs." [9] It is the Government's contention that these prescriptions were issued to maintain these drug addicts as drug addicts, and that he was not issuing these prescriptions to detoxify them, but retaining them as drug addicts.

So, that really all boils down to the end result of what I stated, that he was conducting methadone maintenance or maintaining drug addicts rather than detoxifying them as he was only authorized to do by his regulations, and by his violation of these regulations he violated 841(a) of the CSA.

THE COURT: I will take that statement which you made, Mr. Alto, in the nature of a Bill of Particulars, and limit your proof accordingly, and it will be of notice to Mr. Brown as to the theory of the case.

MR. ALTO: Yes, your Honor.

THE COURT: Are there any other problems that we need to deal with today? Have you had discovery, Mr. Brown?

MR. BROWN: Yes, your Honor, except we would like an opportunity to obtain copies of the records of Dr. Moore that the Government intends to produce. At this time we have no way of refreshing his recollection.

MR. ALTO: No problem.

THE COURT: You will have access to any exhibits or anything of that kind that is going to be used. There will be no problem.

[10] MR. ALTO: No problem with that at all, your Honor. Mr. Brown can come to my office any time and examine those records any time he wishes.

THE COURT: If they are Dr. Moore's records, he is entitled to make copies.

MR. ALTO: He can make copies.

THE COURT: Is there anything else?

MR. BROWN: Just one thing for the record, if your Honor please. I would ask leave of the Court to file a Motion to Dismiss the Indictment pursuant to such interpretation that I give to the Bill of Particulars.

THE COURT: You are always free to do that. We want to get that out of the way before trial if it is not

going to be acted upon favorably. So, you had better get at that.

MR. BROWN: Fine.

• • • •

[DIRECT EXAMINATION OF BOBBY KING]

• • • •

[59] Q Okay. Now, when you went to Dr. Moore's the first time, what happened, what occurred?

A You mean the procedure we went through?

Q Yes. When you first went there, did you apply when you first went there?

A No.

Q Okay. Would you explain to the Court and the jury what occurred then when you first went there?

A When I first went there, I went there with a friend, and my friend, he was in the program, he was getting the methadone, and we was sharing—he would pay half and I would pay half—and he would obtain the methadone.

Q What would you do with the methadone, your share of it?

A We would split it; and I would take mine and he would take his.

Q Now, how much of that methadone were you taking during that time?

A I don't exactly know the exact amount I was taking, but I was taking enough to get high.

Q To get high?

A Yes.

Q What do you mean? Will you explain to the Court and jury what you mean by taking enough to get high?

A Well, my friend explained to me about how much I was [60] supposed to take, and I proceeded from there. Probably take a spoon, teaspoon, little teaspoon, and see the effects of that, and take more if necessary for me to get high.

Q Now, where would you share with your friend, this methadone that he got from Dr. Moore?

A I am sorry, I didn't understand.

Q Where would you share it; where would you divide it up?

A Occasionally on the street. Some time we would go to the school, my house, I live around the corner.

Q Did there come a time when you, yourself, actually applied to see Dr. Moore?

A Yes, there did.

Q Why was that?

A My friend, it was near the end of school, he left to go back—school was out and he left to go back home to Boston.

Q That caused you to apply at Dr. Moore's yourself, is that right?

A Yes.

Q What happened when you went in there to apply?

A You mean the procedure, right?

Q Yes.

A The nurse asked for some ID, stating my age, my required age, and I be 21. I showed her the necessary ID. She give me some forms to fill out and she put an X where I [61] was supposed to sign my name. She said: Make sure you read the statement.

I read the statement and signed my name, as necessary, and filled out the proper data on each one.

Q What happened after you filled out these forms?

A She—I was given an urinalysis.

Q How was that? How were you given the urinalysis?

A She gave me a cup and I went in the back to the bathroom and I gave her an urinalysis.

Q Was anybody back in the bathroom to watch you do that?

A I gave her urine for urinalysis.

Q Was a supervisor or anybody there watching you give the urine?

A No.

Q Was any other physical examination given you?

A No.

Q Was your blood pressure taken?

A No.

Q Was your weight taken?

A Yes, my weight was taken. Yes, my weight and height.

Q Now, after that occurred, what happened then, after that?

A I don't recollect exactly, but she told—I think she told me to—oh, yes, she gave me a form to fill out and to go to B & W Laboratory on Georgia Avenue. I was supposed to go [62] there; and I never did go. But she told me to come back the next day.

Q Did you go back the next day?

A Yes, I did.

Q Did she question you about getting that done or getting that form filled out?

A No.

Q Okay. What happened then the next day when you went back there?

A I went back and got in proper line-up and I saw the Doctor.

Q How long did you wait before your name was called?

A Well, occasionally, I made it a habit of being at least in the first ten or fifteen.

Q Okay.

A So, approximately, a half hour wait.

Q When your name was called, were any other names called with your name?

A Some people that before me was called, yes.

Q And a grouping of how many would be called at one time?

A Five, approximately five.

Q Where would you all go then?

A We would proceed in the back to the nurse's station I would suppose; and we would then wait individually to see [63] the Doctor. And she would call us off individually to see the Doctor. We would go behind to see the Doctor individually.

Q The first time you saw the Doctor, when you were called into the office, will you describe what occurred?

A I went in to Dr. Moore's office and, yes, he looked at my arms. Well, he questioned me about heroin, and everything. I don't know the exact questions. I know he

questioned me; and then he looked at my arms; and asked a few more questions; I suppose; and then he gave me my prescription, my methadone.

Q Did he give you a liquid or prescription the first time you went there?

A It was liquid.

Q How much did he give you, do you recall?

A I don't know the exact milligrams, how much it was. I know it was half a bottle.

Q A half a bottle?

A Yes.

Q Did he tell you how to use it?

A The direction was on the bottle. Yes, the direction was on the bottle.

Q Okay. Did you take that out with you, take it home with you?

A Yes.

Q And when you left there, how much of that did you take?

[64] A I would take enough to get high.

Q To get high. How often were you going back to Dr. Moore when he was giving liquid methadone?

A Approximately every two days, I suppose; sometimes every day depending upon what I took.

Q Okay.

A How much I took.

Q Were you also getting high when you took the methadone you got?

A Yes, I was getting high.

Q Now, Mr. King, there came a time when Dr. Moore began to write prescriptions for Dolophin pills, is that correct?

A Yes.

Q And did you go to him with reference to getting prescriptions for methadone in pill form?

A Dolophin?

Q Dolophins, yes.

A Yes.

Q What would happen when you would go for the Dolophin prescriptions?

A The procedure?

Q Yes.
A He used—it was the same procedure as for methadone. The nurse would call approximately five individuals, and we would go in the rear to the nurse's station, and you would see [65] the Doctor individually, each person, as before, with the methadone.
Q What would happen when you would be called into the office?
A Well, I would go into the office and the Doctor would—he would say—the first time, the first few times I went in the office, he prescribed 50 pills, 500 milligrams.
Q Fifty pills, right. What would he usually say to you, if anything, when you first walked into the office; or what did you say to him?
A Well, later on in the program, when I walked into the office, he would say: What can I do for you?
Q And what would you say?
A Well, depending upon the amount of money I had, I would either say, 100 pills or 50, depending upon the amount of money I had.
Q What were the fees he charged?
A I think approximately $35 for 100 pills.
Q Did you say $35 for how many pills?
A One hundred pills.
Q How many for 50?
THE COURT: You mean $35 for a prescription to take to the drugstore?
THE WITNESS: Yes.
THE COURT: For a hundred pills?
[66] THE WITNESS: For a hundred pills, right. $15 for a prescription for 50 tablets.

BY MR. ALTO:

Q Okay. Do you know how much he charged for a prescription for 75 tablets?
A No.
Q Did you ever get a prescription of 75 tablets?
A Not as I recollect.
Q $35 for a hundred and $15 for fifty?
A Yes.

Q And where would you take these prescriptions to be filled?
A There was three drugstores, Associate, Petworth, and—Associate, Petworth—
Q Prescription Shop?
A Prescription Shop.
Q And would they fill these prescriptions for you?
A Yes, they would.
Q And would they charge you money for filling the prescription?
A Yes.
Q What would it cost to fill a prescription, say, a prescription for 100?
A $5.25, I think.
Q What would they charge for a prescription for 50 pills?
[67] A $2.50, I think.
Q Now, what were you doing with these pills?
A I was taking the necessary amount for me to get high; and I sold the rest.
Q Okay. How much were you selling them for?
A A buck and a half.
Q Okay.
THE COURT: A pill?
THE WITNESS: A buck and a half for each tablet.
THE COURT: Per tablet?
THE WITNESS: Yes.

BY MR. ALTO:

Q You were selling them on the street, were you?
A Yes.
Q Now, when you first started getting prescriptions from Dr. Moore, how many a day were you taking?
A When I first started, I was taking approximately two to three per day.
Q Did it increase or decrease as you kept on going back?
A My tolerance rose and, therefore, my individual—well, the amount of pills for me to get high increased.
Q How many pills were you taking at the end per day?
A Approximately 30, 35 pills per day.

Q When did you first become addicted to methadone?
A I can't remember the exact date, but it was some time [68] in—are you saying liquid methadone or the tablet, Dolophin?
Q Were you addicted to methadone before you went to Dr. Moore?
A Let's see. Yes, I would say so.
Q You were addicted to methadone before you went to him?
A My friend and I, when we was going together, I got addicted during that time.
Q Okay. When you were getting the prescriptions from Dr. Moore, approximately how often were you going there?
A That depended upon the amount I got the day before or how many I sold; but, approximately, I would go there approximately once a day or every other day and sometimes—I can remember once or twice—twice a day.
Q You went there twice a day?
A Yes.
Q On some occasions?
A I think in one or two cases, twice.
Q How would you do that?
A Well, the Doctor, he had a program where you could see him between the hours of 12:00 and 2:00 and the hours between 5:00 and 8:00. I would go there between 12:00 and 2:00 and also between 5:00 and 8:00. But I didn't do this no more than once or twice.
Q And would you get a prescription each time?
[69] A Yes.
Q Did he ever question you about your having been there earlier in the day?
A No.
Q Did he ever ask you how many of those pills you were using?
A No.
Q Did he ever tell you how many to use to detoxify?
A Well, he didn't say how many to use to detoxify, but the directions was on the bottle after you received it from the individual prescription shop.

Q Did Dr. Moore ever give you any directions, he, himself, give you any directions on how to use these pills, how many to take?
A Well, he told me not to try—not to try to use the pills intravenously.
Q You mean inject them?
A Right.
Q Can you inject those pills?
A It can be done.

• • • •

[CROSS-EXAMINATION OF BOBBY KING]

[109] THE COURT: You had no regular appointments?
THE WITNESS: I had no regular amount. In other words, I would get—
THE COURT: My question is not amount. Did you have regular appointments with the Doctor? Did he expect you to come back at a particular time, instruct you to come back at a particular time?
Do you follow what I am saying to you? I am not talking about the amount. Say you were in Tuesday. Did he set a time for you to come back again?
THE WITNESS: No, he didn't really set a time. I came back on my own.
THE COURT: So you came back when you had the money?
THE WITNESS: Right, the money and—right, the money.
THE COURT: The dosage, then, was based on what you could buy?
[110] THE WITNESS: Correct.

[DIRECT EXAMINATION OF KAREN BRYAN]

• • • •

[134] Q Did you have occasion, Officer Bryan, to visit the offices of Dr. Thomas Moore at 1520 9th Street, Northwest?

A Yes, I did.

Q Directing your attention to February 2, 1972, did you visit his offices then?

A Yes, I did.

Q What occurred when you went in the office?

A I went into the office and approached the secretary, and I said: May I please see the Doctor?

[135] And she asked me for an ID; and I handed—

Q Excuse me, Officer Bryan. Can you get a little closer to the microphone so I can hear you all the way back here.

THE COURT: She asked you for an ID, you say?

THE WITNESS: Yes, sir; and I handed her an ID made under the alias of Lynn Ryan.

Q Okay.

A And she partially filled out some forms and handed them to me to fill out.

Q About how many forms were you given?

A There were approximately four, five.

Q And what did you do? Did you fill out those forms?

A Yes, sir.

Q What happened next?

A I handed her the jacket and she put it in a pile of other new applicants.

Q After that was done, what did you do?

A I waited in the waiting room until my name was called.

Q How long was it before you name was called?

A Maybe an hour, an hour and a half.

Q Okay. What happened then after your name was called?

A I and about four, five others went into a hall-type room adjacent from his office, and the nurse asked to see my marks; and I showed her my arm; and she took my blood pressure and my weight; and I had to give a urine sample.

[136] Q Okay. Was anybody present when you gave this urine sample?

A No, sir; I closed the door behind me.

Q Did you do anything to the urine?

A No, sir.

Q Now, were you a user of narcotic drugs in any way?

A No, sir.

Q What happened after she took the blood pressure, the weight, and you gave the urine? What happened after that?

A We were called one at a time into Dr. Moore's office.

Q And after you went through this various testing, did you go back in the waiting room or wait in line?

A No, sir; we stood in the same group; and then we were called one-by-one into his immediate office.

Q How many were in the group waiting to see him?

A There were about five or six of us, sir.

Q Where were you waiting with relation to his office?

A We were waiting in the hall, which is right beside it.

Q Were you all standing or sitting?

A We were standing at the time.

Q What were you in that line?

A In the middle, sir.

Q Okay. Now, there came a time you were called into the Doctor's office?

[137] A Yes, sir.

Q Will you describe to the Court and the jury what transpired when you went into the Doctor's office?

A Yes, sir. I went in and he asked me what he could do for me; and I said, I would like some Dolophins.

He said: Let me see your trackmarks. And I showed him my arm. And he wrote me a script for 35 Dolophins—50 Dolophins, excuse me.

Q Now, did you have anything on your arm?

A Yes, sir, I did.

Q What did you have there?

A I had marks that were given to me by a doctor at the police clinic.

Q What kind of marks were they?
A Needle marks.
Q About how many were there?
A Seven.
Q And were they on both arms or one?
A Just one.
Q Did the Doctor look at both your arms or just one arm?
A Just one.
Q Did he ask to look at the other arm?
A No.
Q Was there any other conversation with Dr. Moore at that time?
[138] A None that I can recall.
Q How long were you in the office?
A Not more than three minutes.
Q What did you do then? What happened next?
A I went out and I tried to give the nurse the money, to pay for the script, because I didn't pay Dr. Moore at the time. And I said: How much is it for the visit?
She said, she looked at me, and kind of laughed. So she said: Nothing. And I walked out. And I went and had my prescription filled.
Q Where did you get it filled?
A Up the street at Associates.
Q Okay. And did you receive the filled-out prescription from the drug store, Associates?
A Yes, sir.
Q Was that prescription eventually taken to the United States Chemist at the Bureau of Narcotics and Dangerous Drugs?
A Yes, sir, it was, sir.
Q When was the next time you went back to Dr. Moore, if you did?
A I went back on the 4th.
Q Two days later?
A Yes, sir.

Q What happened when you went in the office there?
A I went into the office and I handed the woman my I.D., [139] and she pulled my jacket; and then I waited until my name was called.
Q About how long did you wait?
A About an hour, an hour and a half.
Q Approximately how many people were in the office while you were there?
A I would say approximately 40 or 50 people, but it is hard to say, because as people were going into his office and leaving, there were more coming in. So it is really hard to say.
Q Okay. So you waited until your name was called. Was anybody else's named called when your name was called?
A Well, he took groups at a time and we waited in the hall, the same as when I was there a couple days before. About four, five of us.
Q Now, there came a time when you were called to go into the Doctor's office, is that correct?
A Yes, sir.
Q And what happened this time, on February 4?
A I went into his office and he said: What can I do for you?
I said: I would like 50 more.
And he wrote me a script for 50 Dolophins; and I gave him $15.
Q Any other conversation?
A No, none that I can recall.
[140] THE COURT: You say you gave him $15. Did he determine that or did you just hand him that?
THE WITNESS: No, sir, that was the price.
THE COURT: Who quoted the price to you?
THE WITNESS: It was common knowledge in the waiting room; everybody talked price.

BY MR. ALTO:

Q Did he accept the $15.
A Yes, sir. I gave him a twenty and he gave me five back.

Q Did you receive from Dr. Moore any directions as to how to use these pills?
A No, sir.
Q Did you receive any other physical examination beside blood pressure, weight, and the giving of a urine specimen?
A No, sir.
THE COURT: Did you receive that examination on the second visit?
THE WITNESS: No, sir, that was on the first time.
THE COURT: Just on the first visit.

BY MR. ALTO:

Q Was there any subsequent examination after that?
A No, sir.
Q On the second visit, did Dr. Moore ask to look at your arms?
[141] A No, sir.
Q Did Dr. Moore make any reference to the urine results?
A No, sir.
Q When is the next time you went back, if you did?
A I went back on the 8th.
Q Four days later?
A Yes, sir.
Q And what transpired when you went back on the 8th?
A Well, it was basically the same thing. I went in and I handed the nurse my ID; and she pulled my jacket; and when my name was called, and I went into his office, I asked him for 100 pills this time.
Q Let me stop you. How long did you wait this time before your name was called?
A It was a pretty long while, because there were people in and out. He had lawyers in there asking for affidavits; and he was on the phone a lot.
Q Okay. When your name was called, other names were called also, is that correct?
A Yes, sir.
Q You waited in line, right?

A Yes, sir.
Q What happened when you were called into the Doctor's office on February 8?
A I asked Dr. Moore for a prescription for 100 Dolophins.
[142] Q And what did he do?
A He gave me a script for a hundred pills.
Q Did he say anything else to you?
A None that I can recall.
Q Was any payment made to him?
A I paid $35 for that script.
Q Did you give that $35 to Dr. Moore?
A Yes, sir.
Q And did he accept it?
A Yes, sir.
Q When was the next time you went back?
A The next day.
Q February 9?
A Yes, sir.
Q What happened on February 9?
A I went into the office and I handed the woman my ID card; and she pulled the file; and it was only—it was really kind of confused that day because there were hardly any more Dolophins left in the City, and people were really getting panicky, and they were trying to get in to see the Doctor.
Q How many people were in that office that day?
A It was really hard to say because there were just so many. I know that there is seating capacity for about 25 people in his office; and we were sitting on laps and sitting on the floor and on the front steps, and it was—it is really [143] difficult to say, sir, how many, maybe about 80 people.
Q Did there come a time you got to see Dr. Moore that day?
A Yes, sir.
Q And what occurred when you were called into the office?
A He was on the phone at the time and he was apparently on hold; and I asked him—
He looked up and said: What can I do for you?

And I said: 150.
And he gave me a script for 150; and I gave him $50.
Q $50?
A Yes, sir.
Q Did he receive and accept the money?
A Yes, sir.

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[DIRECT EXAMINATION OF FORRIS ENSOR]

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[170] Q Okay. Now, do you recall about when you started going back to Dr. Moore to get Dolophin prescriptions?

A The end of August. Like I said, I am not positive of the date.

Q Okay. Approximately how often were you going to Dr. Moore to get the prescriptions?

A In the beginning?

Q When you went to get the prescriptions?

A Well, in the beginning, I was just going like once a week. It began to be twice a week; and I think the most it ever was was three times a week.

Q How many of those Dolophin pills were you taking in the beginning when you first went to get the prescription?

A How many pills?

Q Yes.

[171] A Between, I guess between five and ten in the beginning.

Q Now, were you getting high in the beginning on taking between five and ten?

A Not really, real high, but I was feeling nice, you know, because I hadn't taken anything for three weeks, but I still was really sick, I still had the habit, but I just again, I just like tried to get off, but I couldn't. I guess I could have if I wouldn't start it again.

Q How many of those pills did you need in the beginning just to stabilize yourself, that is, to keep from getting sick?

A I guess about five.

Q About five. Now, as you went to Dr. Moore, did your in-take of pills increase or did it decrease?

A Did I increase my pills?

Q Yes.

A Yes, sir, I did.

Q What did you increase them to?

A Well, like I said, I was taking between five and ten; and then I started taking fifteen and then twenty and then twenty-five and thirty. I got up to—I got as far as, I think the most I ever ate was almost seventy.

Q You say, almost 70. You mean 70 pills at one time?

A Right.

Q Why did you do that?

[172] A Because after a while, I was eating so many, that if I wanted to feel good or feel high, I would have to eat that many.

Q What determined how often you went back to Dr. Moore to get a prescription?

A Well, usually when I ran out, I would go back.

MR. BROWN: I am sorry, I didn't hear the answer.

THE COURT: "Usually when I ran out, I would go back."

BY MR. ALTO:

Q What were the fees Dr. Moore charged you for the prescriptions?

A $35.

THE COURT: For what?

BY MR. ALTO:

Q For how many pills?

A $35 for a hundred pills.

Q Did you ever get a prescription for 50?

A No, sir, I got one prescription for 75. That was just one.

Q What were all your other prescriptions?

A A hundred.

Q A hundred. What was the fee for 75?

A I think it was $25. I only got it once. I am not real positive. I think it was $25.

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[174] Q Mr. Ensor, I am going to hand you a packet of 26 prescriptions marked Government's Exhibit No. 5.

Please keep them in chronological order and examine them to determine if they were prescriptions given to you by Dr. Moore.

A Yes, sir, they are mine.

Q Are they all prescriptions Dr. Moore gave you?

A Yes, sir, they are; they have my name on them.

Q What is the starting date, the first prescription, [175] and the last date?

A The first one is 8/—

Q 27?

A I think, either 8/27 or 8/11.

THE COURT: Seventy-one?

THE WITNESS: Seventy-one. And the last one is 1/4/72.

BY MR. ALTO:

Q January 4, '72. Were they all for 100 except for one, which is 75?

A Yes, sir.

MR. ALTO: If Your Honor please, the Government moves the admission into evidence of Exhibit 5.

THE COURT: It may be received without objection.

(Whereupon, Government's Exhibit No. 5, previously marked for identification, was received in evidence.)

BY MR. ALTO:

Q I see from the prescriptions, Mr. Ensor, that you got a prescription on October 28 for 100, and went back the next day and got a prescription for 100, also, two days in a row. Does that sound right?

A No, it doesn't. I never went back two days in a row. [176] I am sure of that. I have gone back, like I went one day and skipped a day and went back, but I am almost positive I never went two days in a row. I think maybe the days are wrong.

Q You used to go back every other day sometimes?

A I have done that but I know I never went back, like, today and then the next day, because I never did; I know that.

Q You would go back sometimes every other day?

A Yes, sir.

Q Did you ever have any conversation with Dr. Moore with respect to your being back there so soon?

A Well, a few times he said, you know, he said that—you know, he said: Weren't you just here?

And he said: Try not to come so often.

But that is about all.

Q Did you ever have any conversation with him with reference to how many pills you were taking?

A In the beginning, he would tell me—he told me to take five pills in the morning and five pills in the evening.

Q Did he tell you that, personally?

A Yes, sir. And he also had it written on the prescription blank.

Q Okay. Did you ever have any further conversation with him after that, after the beginning, about how many you were taking and why you were coming back so often?

A No, sir.

[177] Q Did you ever sell any of those pills?

A No, sir.

Q Did you ever get any directions from Dr. Moore on detoxifying?

A When I first went there, the Doctor said that I would have to detoxify myself in 21 days; but I never heard any more about it after in the beginning; so I just kept coming.

Q In other words, after the 21 days, you kept on going back?

A Yes, sir.

Q And you kept on getting prescriptions for a hundred, is that right?

A I couldn't hear you.

Q And you kept on getting prescriptions for a hundred?

A Yes, sir.

Q Did you have any other conversation with him about detoxification?

A Not except in the beginning.

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[REDIRECT EXAMINATION OF FORRIS ENSOR]

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[194] Q Now, when you went to this doctor in Baltimore to be detoxified in ten days, was that to be detoxified from methadone addiction or Dilaudid addiction?

A Methadone.

Q Where had you picked up that methadone addiction?

A From Washington.

Q From Dr. Moore, is that correct?

A Right.

Q The prescriptions show, Mr. Ensor—I want to ask you a question—in August, you got 1,000 milligrams, September, 4,000, October, 6,000, November, 7,000 milligrams, December, 7,750 milligrams.

Did you ever have any conversation with Dr. Moore why you were getting an increase in milligrams each month and why he was giving them to you?

A No, sir.

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[DIRECT EXAMINATION OF ROGER W. WHEELER]

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[202] Q Did Dr. Moore ever question you about your coming back, how many pills you were taking, or what you were doing with them?

A He might have but I don't recall.

Q Did you ever sell any of these pills?

A Well, a friend of mine that I knew was using methadone was sick, or something, one day, I might, but not very often at all.

Q The prescriptions show that all of your prescriptions except for two out of the 48 were for 50 Dolophin pills. The two were for a hundred. Now, what determined the amount that you got from Dr. Moore?

A The amount of money I had.

Q And what were the fees he charged?

A $15 for 50 and $35 for a hundred, I think.

Q Now, when you first started getting these Dolophin prescriptions, that is, the first one of August 3, 1971, how many of those pills were you taking a day?

A It is such a long time ago, I don't know. Usually I would take 15, 25. It would all depend on my mood for the day.

Q What do you mean, your mood? Were you getting high from these pills or just keeping you from getting sick in the beginning, when you were taking 15 to 25?

A I was using them to get high.

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[DIRECT EXAMINATION OF IVAN GOWER]

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[226] BY MR. ALTO:

Q Sir, would you please state your name.

A Ivan Gower.

Q How do you spell your last name?

A G-O-W-E-R.

Q How do you spell your first name?

A I-V-A-N.

Q How old are you, Mr. Gower?

A Twenty-one.

[227] Q In what city do you live?

A Baltimore, Maryland.

Q Did there come a time that you visited the offices of Dr. Thomas Moore on Ninth Street in Washington, D. C., Northwest?

A Yes.

Q Do you remember when you first went to him?

A December '69 or December '70.

Q Could it have been December of 1970?

A Yes.

Q And what was your reason for going to him?

A To get Dolophins.

Q Were you addicted to any narcotic drug at that time?

A No.

Q Why did you want to get methadone?

A Just to get high.

Q Will you get a little closer to the microphone so we can hear you back here.

You say, just to get high?

A Yes.

Q Now, what occurred when you first went to his office?

A I got weighed, blood pressure, filled out an application.

Q Okay. Did you give a urine specimen?

A Yes.

[227-A] Q Had you had any narcotic drugs in you at the time you gave that urine specimen?
A I don't think so.
Q What occurred when you first saw the Doctor?
A He asked me how I was doing, what could he do for me.
Q What did you tell him?
A I told him I wanted to purchase some methadone.
Q And what occurred then?
A He asked—well, I am not sure exactly what the exact words were, but was some talk about how much money; and I think I give him $15 and he gave me a bottle of liquid methadone.
Q So it wasn't Dolophin when you first went there, it was liquid, is that correct?
A Right.
Q Now, did you drink that bottle there or did you take that out?
A No, he gave me a small cupful there, to drink there, and a bottle to take home. It was a half a bottle.
Q Now, did you drink that methadone?
A Yes.
Q What was your reaction to it?
A Got loaded.
Q What do you mean, you got loaded, you got high?
A High, yes.
[228] Q How often did you go back to Dr. Moore to get liquid methadone?
A At least once or twice a week.
Q And did you always use that methadone to get high?
A Yes. Well, eventually, I did get addicted to it.
Q How long was it before you got addicted to it?
A Maybe, I don't know, a month or two.
Q Did there come a time, then, Mr. Gower, you got into Dr. Moore's Dolophin prescription program?
A Yes.
Q Do you remember approximately when that was?
A Around August or September.
Q Incidentally, going back to the first time you went to Dr. Moore, did he ask to look and see if you had any track marks?

A No, he didn't look at mine. He didn't look at my arms, no.
Q When you went back to get Dolophin prescriptions, were you given any examination at that time?
A I can't remember. I may have and may not. I don't know.
Q The first time you went there for Dolophin pills, what occurred?
A Just asked me how many did I want; and I told him; and I gave him the money; and I got the prescription.
[229] Q How often would you go back to get those pills?
A Couple times a week usually.
Q What determined how often you went back?
A How much I had.
Q What were the fees that Dr. Moore charged?
A I think it was $15 for 50 and $25 for 75 and $35 for a hundred; and I think it was $55 for 150.
Q Now, why did you go back—you were on the liquid program. Why did you go back and get the Dolophin prescriptions?
A Well, he stopped dispensing liquid.
Q All right.
A I think he was down for a week or something, I am not sure, and then he started giving out the prescriptions.
Q When you used to go in his office once or twice, three times a week, how many people would be in the office there?
A Usually couldn't—just about get in the door.
Q Could you make an approximation?
A Maybe about a hundred, I don't know, 75.
Q What would happen, generally, when you would walk in?
A Gave your name to the nurse, receptionist, and she take your folder out and lay it down.
Q What would you do then?
A I had a card at one time and she would put the date on the card, on the appointment card.
[230] Q Then what would you do after she pulled your folder?

A Sit down and wait until my name was called.
Q How long did you usually wait?
A It would be an hour and a half, two hours.
Q What would happen when your name was called?
A Go in the hall and wait.
Q Were any other names called beside yours when your name was called?
A Usually called maybe two or three at a time.
Q Where would you all go?
A Into a hallway; and he would take us in one-by-one.
Q And what, generally, would happen every time you would go in there?
A The same thing. Just ask me what he could do for me; and I would tell him.
Q Did he ever give you any directions on how to use the Dolophin pills?
A Once in a while he would ask me how many I was taking a day; and I would tell him. That was about it.
Q Did he ever give you any advice that you were doing wrong or that you should do it this way?
A Not that I can remember.
Q Did you ever have any discussions with Dr. Moore during the time you were getting these prescriptions about detoxification?
[231] A I think one time I got arrested and I wanted —I was afraid I was going to go to jail; and I asked about getting detoxified; and I think he said something like that he had too many patients and didn't have the time, you know, to work with just me alone, whatever —something to that effect—about detoxifying me, I mean, that is, increase my dosage. Because at that time, I was pretty well addicted.
Q Did you ever go there two days in a row?
A I think so.
Q Did you ever have any argument with Dr. Moore during the time that you were getting these prescriptions?
A Once or twice about money, if I was short money.
Q What were the arguments about?
A Might be a couple dollars short, and he would say, you know, a lot of people were coming to him and telling

him that they were short money, and he just couldn't do it any more; and I would go out and borrow the money from other people and come back in and get my prescription.
Q Now when you first started getting Dolophin prescriptions from Dr. Moore, how many a day were you taking?
A This isn't including the liquid, right?
Q This is after the liquid.
A Just the Dolophin?
Q Dolophin prescriptions.
A It is hard to say. Usually, anywhere from ten to 60.
[232] Q How many of those pills did you need to maintain yourself, that is, to keep from getting sick, in the beginning?
A I'd say around ten at the most.
Q And how many did you need to take to get high in the beginning?
A This is the Dolophins, right?
Q Yes.
A About 20.
Q About 20. Now, were you always taking those Dolophin pills to get high?
A At first. Well, I don't know. After a while, no I was taking them to keep from getting sick.
Q And how many were you taking when you stopped going to Dr. Moore in February a day?
A Twenty-five, 30 a day maybe. I have taken as high as 60 at one time.
Q Why did you take 60?
A To get high, because tolerance increased, increased.
Q Your tolerance increased and increased?
A (Witness nods assent.)
Q Did you ever sell any of those Dolophin pills?
A A few. If I couldn't get the money up to get a prescription, yes.
Q What was the selling price? What would you sell them for?
[233] A A dollar apiece.

Q Did there come a time when the price rose?
A Yes.
Q And when was that?
A When they closed down.
Q When Dr. Moore closed down?
A Yes.
Q What did the price rise to?
A About $2 apiece.
Q Are you drug-free now, Mr. Gower?
A Yes.
Q How did you get drug-free?
A I got arrested in May, and I was in the city jail for 20 days, and I kicked cold turkey, and I have been drug-free ever since then.

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[DIRECT EXAMINATION OF
WILLIAM N. BURGEE]

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[251] BY MR. ALTO:

Q Looking at the first prescription, when did you receive the first prescription? Does that refresh your recollection?
A I have a hard time reading this handwriting, but I think it says the 25th of January, 1972.
Q Okay. And was that for 50 Dolophin pills?
A Yes, I think so.
Q Okay. Now, looking at the second prescription, does that refresh your recollection as to the second time you went back?
A Yes, it is the 29th.
Q And how many Dolophin pills did you get on that occasion?
A 100.
Q What conversation did you have with Dr. Moore on that occasion?
A I went into his office and he asked me what he could do for me; and I told him I wanted 100 Dolophins.
Q What did he do?
A He gave me a prescription for 100 Dolophins.
[252] Q Did you pay him a fee?
A Yes, I did.
Q How much was that?
A $35.
Q Now, looking at the third prescription, does that refresh your recollection as to the third time you went in there?
A Yes, it was the 1st of February, 1972.
Q How many Dolophin pills did you get on that occasion, February 1?
A 150.
Q Was there anything in the conversation with Dr. Moore on that occasion that was different than the other two conversations you had with him?
A To the best of my recollection, no.

Q Okay. When is the next time you went there?
A I can't really read this handwriting too well. I think it is February 3.
Q Did you ever go two days in a row?
A I don't think I did. So far I haven't here.
Q Okay. The fourth prescription you got, how many pills did you get on that occasion?
A 150.
What date is this, is that the 3rd?
Q This would be the fourth prescription, isn't that [253] correct, Mr. Burgee? How many did you get on that occasion?
A 100.
Q Okay. And you paid a fee to Dr. Moore?
A Yes, I did.
Q What was the fee you paid?
A $35.
Q Was there any different conversation with him than the other conversations you described?
A Only the fee for 150, it was $50.
Q When was the fifth time you went there?
A February 7.
Q How many did you get on that occasion?
A 150.
Q Did you have any conversation with Dr. Moore on that occasion when you asked for 150 Dolophin pills?
A To the best of my recollection, no.
Q Will you describe what happened when you went into the office and you requested 150?
A He wrote a prescription for 150.
Q Did he say: What can I do for you?
A Yes, or something similar.
Q Did he question you or have any conversation with you with respect to your asking for the increased amount to 150?
A I don't believe so.
Q And what was the fee he charged for the 150 Dolophin [254] pills?
A Fifty Dollars.
Q Now, when was the last time you went to Dr. Moore?

A February 9, 1972.
Q And you said the time before that was February 7?
A Yes.
Q How many did you get on February 9?
A 150.
Q And was the fee $50?
A Yes, it was.
Q Was there any conversation with Dr. Moore that was different from the other conversations you had with him?
A To the best of my recollection, no.
Q Did Dr. Moore ever give you any directions on how to use these?
A The prescription bottles had, as directed for detoxification.
Q But did Dr. Moore, himself, ever give you any directions as to how to use these for detoxification?
A No.

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[DIRECT EXAMINATION OF JEROME BROOKS]

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[261] BY MR. ALTO:

Q Had you ever been addicted to narcotic drug prior to that time?

A Yes, sir.

Q How long before you went to Dr. Moore's were you addicted to a narcotic drug?

A About five years.

Q Now, how did you get unaddicted to a narcotic drug before you went to Dr. Moore's?

A I was in jail for nine months.

Q And how long had you been out of jail before you went to Dr. Moore's?

A About five months.

Q And you were not addicted at the time you went there, to Dr. Moore's?

A No, sir.

Q Why did you want to get methadone?

A To get high.

* * * *

[264] BY MR. ALTO:

Q Mr. Brooks, what did the Doctor give you on that first visit? Did he admit you into his program?

A Yes, sir.

Q What did he give you?

A One bottle of liquid methadone.

Q To go or to drink there?

A To go. I drank a small dose there and I had the bottle with me.

Q What did you do with that methadone, use it to get high?

A Uh-huh.

[265] Q How often did you go back to Dr. Moore on the liquid?

A At first it was every two or three weeks, I think; and then it builds up, so you start going once a week.

Q You say it builds up. What builds up?

A You get a habit and, you know, your tolerance builds, you have to take more.

Q And did you develop the habit on methadone?

A Yes, sir.

Q How long was it before you developed a habit?

A It is hard to say, you know. You develop a mental habit first, and then, you know, the next thing you know, you wake up and you have the physical habit.

Q Did you have occasion after the liquid program ended to go to Dr. Moore to get Dolophin prescriptions?

A Yes, sir.

Q Did you have a habit at that time?

A Yes.

Q How often would you go to see him to get Dolophin prescriptions?

A I tried to make it once a week.

Q And what would happen when you would go in the office to get Dolophin prescriptions?

A He would ask how many I wanted, and 50, 75 or a hundred; he told me the price; and I told him how much I wanted; and I paid him.

[266] Q What were the prices?

A It was $15 for 50, $25 for 75, and $35 for a hundred.

Q And what determined the amount you got?

A He asked me, you know, how many I wanted. If I wanted 75, he would give me. If I wanted a hundred, he would give me.

Q What determined how often you went back there or how many you would get?

A What do you mean, what determined it?

Q What determined the frequency of your visits to Dr. Moore?

A Me.

Q You?

A Uh-huh.

Q Did the Doctor ever schedule a set of appointments for you?

A No.

Q Did he ever give you any directions on how to use these pills?

A I think on the bottle it said, Detoxification.
Q On the bottle. But did he, himself, ever give you any directions?
A I can't say for sure, you know.
Q Did Dr. Moore ever tell you how to detoxify with these pills?
[267] A No.
Q Now, in the beginning, when you were first getting the prescriptions, how many of the pills a day were you taking?
A I guess five or so, started out taking.
Q And at the end, when you left Dr. Moore, when he closed down, how many were you taking?
A The last time I took them, you mean?
Q Yes.
A About 30.
Q Now, in the beginning, how many did you need to keep from getting sick, just to maintain yourself?
A Pills, you mean.
Q Yes.
A I guess 30, 40 milligrams, three or four pills.
Q Three or four pills? Were you taking those pills to get high or to keep from getting sick?
A To keep from getting sick.
Q Now, did the habit build up? Did your tolerance build up as you went?
A Sure.
Q And were you getting high any times that you took those pills?
A At first, you know, you get high, like you get, or something, and afterwards, it just builds up so fast. One week you get high, and two weeks later, you know, your tolerance [268] just builds so fast.

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[270] Q Now, while you were getting these Dolophin pills [271] from Dr. Moore, did you ever sell any on the street?
A When I needed money.
Q Well, my question was, did you sell any?
A Yes.

Q When you needed money for what?
A To get more.
Q To get more. What price did you sell them at?
A A dollar apiece.

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[DIRECT EXAMINATION OF
HERBERT B. HOLLAND]

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[285] Q Did there come a time when you stopped the liquid program and you went and got Dolophin prescriptions from him?

A Yes, it was.

Q How often would you go to him to get Dolophin prescriptions?

A I'd say on an average two, three times a week—two times a week.

Q And what would happen when you would go in and get the Dolophin prescriptions?

A I would go in there; the secretary would take my name; and she would get my folder out and put it in line, you know, on top of the other ones; and when it was my turn, he would call me in the office and he would ask me how many would [286] I need.

Q What would you say?

A Well, if I had enough money, if I had $40, I would say: Could I have a hundred Dolophins.

Q Would he give you a hundred?

A Yes.

Q Did he ever question why you wanted so many or how many you were taking?

A Not to my knowledge.

Q How long would these visits last when you would be in his office?

A Not long.

Q How long, would you say?

A About 30 seconds—about a minute.

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[291] Q How many pills were you taking in the beginning when you were getting those prescriptions?

A Approximately ten, fifteen pills.

Q Were you getting high?

A No—well, a little bit, little bit. I wasn't getting high, as people say high. I was taking more than I should have to stay straight, but I wasn't getting high.

Q You say you were taking how many, in the beginning, of the pills?

A Approximately ten, maybe fifteen.

Q That is 100 to 150 milligrams, is that right?

A That is right.

Q How many were you taking in the end of February when you got the last prescription a day?

A Anywhere from 30 to 60, 60, 65 sometimes.

Q In other words, anywhere from—

A Three hundred milligrams to 650 milligrams.

Q Did you ever have any conversation with Dr. Moore about the fact that you were down to 40 milligrams and that you were getting all of these prescriptions, 33 of them in four months? Any conversation with him about that, your detoxifying?

[292] A No, sir.

Q Now, the prescriptions show that in August, August 30, you got one prescription for a hundred, that is 1,000 milligrams; September, three prescriptions for 2,250 milligrams; October, four prescriptions for 2,250 milligrams; November, six prescriptions for 5,000 milligrams; December, nine prescriptions for 7,750 milligrams.

Did Dr. Moore tell you that this was how he was going to detoxify you?

A No. I would just come in and get my prescription and cash it and then go take my medication.

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[DIRECT EXAMINATION OF
KENNETH A. BROWN]

[359] BY MR. ALTO:

Q Officer Brown, will you state for the record your full name.
A Kenneth A. Brown.
Q And your occupation?
A Police officer.
Q Where are you assigned, Officer Brown?
A Sir, I am assigned to the Narcotic Branch, Metropolitan Police Department.
Q How long have you been assigned to the Narcotics Branch?
A Assigned to the Narcotic Branch May 18, 1969.
[360] Q For how long have you been a police officer?
A Five years in January, sir.
MR. ALTO: If Your Honor please, I am waiting for the Marshal to bring out some exhibits I have to show the witness.
THE COURT: Yes.

BY MR. ALTO:

Q Officer Brown, I hand you Government's Exhibit 20-A, and ask you to examine the contents, and ask you if you had occasion to have that in your custody?
MR. BROWN: What was the question? I am sorry.
THE COURT: Whether he has had that exhibit in his custody is the question, I believe, Mr. Brown.
MR. ALTO: Yes, sir.
THE WITNESS: Yes, sir.

BY MR. ALTO:

Q Government's Exhibit 21-A, will you examine that exhibit and I ask you if you have had occasion to have that in your custody?
A Yes, sir, I have
Q Finally, Government's Exhibit 19-A, have you had occasion to have that exhibit in your custody?
A Yes, sir, I have.

Q Now, Officer Brown, did you have occasion to identify any prescriptions amongst those three exhibits issued by Dr. Thomas Moore?
[361] A Yes, sir.
Q How did you identify the prescriptions as being written by Dr. Moore?
A Sir, those were prescriptions which were identified by the Doctor's label, by the Doctor's BNDD registration number and by the Doctor's signature.
Q Did you have occasion to count all of the prescriptions issued by Dr. Moore between September 1, 1971 and February 11, 1972 for Dolophin tablets?
A Yes, sir.
Q And what was the total count of the prescriptions issued for methadone?
A Sir, the total number of prescriptions written by Dr. Moore for Dolophin tablets during the period September 1, 1971 through February 11, 1972 was 11,169.
Q Did you further break that down and count the prescriptions in accordance with the number of pills that were prescribed?
A The number of pills, sir?
Q Yes, the number of Dolophin tablets that were prescribed in each prescription?
A Yes, sir.
Q How many prescriptions during that period of time were issued by Dr. Moore for 50 Dolophin tablets, of ten milligrams?
A During that period of time, sir, 5,486 prescriptions.
Q And how many prescriptions were issued by Dr. Moore [362] for the quantity of 75 ten-milligram Dolophin tablets?
A Sir, during that period, a total of prescriptions for 75 was 1,126.
Q And how many prescriptions were issued by Dr. Moore for the quantity of 100 ten-milligram Dolophin tablets?
A Sir, for that period, for 100, a total of 100 Dolophin tablets, the number is 4,225.
Q And how many were issued during that period of time for 150 tablets?

A Sir, 214.
Q And how many for 200?
A A total of 9, sir.
Q And do you have any others?
A Yes, sir. There were 109 miscellaneous.
Q What is the range of those, of the number of tablets prescribed, within the 109 miscellaneous?
A Ranging from 15 to 300.
Q Okay. How many of the 300 were there?
A There were five, sir.
Q Did you further break it down, Officer Brown, into total number of prescriptions issued by Dr. Moore per month, beginning on September 1?
A Yes, sir.
Q How many total prescriptions were issued by Dr. Moore in September?
[363] A The total was 807, sir.
Q And in October?
A The total for October was 1,765.
Q And November?
A Total for November was 2,370.
Q In December?
A Total for December was 2,660.
Q January?
A The total for January was 2,524.
Q And from February 1 through February 11?
A From February 1 through February 11, the total was 1,043.
Q Now, Officer Brown, did you further break down by date the dates that Dr. Moore issued over 100 prescriptions?
A Yes, sir, we did.
Q On how many dates did he issue over 100 prescriptions?
A A total of 54 days.
Q And is that in between that period, September 1 to February 11?
A Sir, the time period is from September 20 through February 9, 1972.
Q Are there any days he issued over 200?
A Yes, sir.

Q How many?
A There were two days, sir.
[364] Q And what two days were they and what number?
A November 29, 1971, a total of 206 prescriptions; and on January 5, 1972, there were a total of 271 prescriptions.

[DIRECT EXAMINATION OF
DR. DAVID H. FRAM]

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[386] BY MR. ALTO:

Q Let me start with respect to the Psychiatric Institute, your Drug Rehabilitation Center. How do you treat drug addicts there by the use of methadone?

A The part of the treatment that includes methadone, the methadone is used in two major ways: One is for detoxification and the other is for maintenance.

Detoxification involves giving an addict a dose of methadone that is roughly equivalent to the amount of heroin they were using, and giving successive diminishing doses until they are not taking any methadone.

Methadone maintenance involves prescribing a set dose of methadone daily, and continuing that.

Q Okay. Now, Doctor, say a person comes to the Psychiatric Institute and states that: I have a heroin problem; can you help me? What steps from the beginning does your Institute take?

A Well, the first thing we would do would be to conduct an evaluation. This would involve myself or other psychiatrists involved in the program doing a psychiatric evaluation. It would involve all of the staff members conducting their own evaluation of the individual as to, one, whether he is an addict, and what the nature of the addiction problem is, and what the [387] nature of the underlying difficulties leading to the addiction are.

Also, a physical medical exam is conducted as well on all the people that come, which includes laboratory tests and chest X-ray.

Q What kind of laboratory tests, to determine what?

A Well, mainly to determine if the individual is physically well. Large numbers of the addicts that we have seen have had difficulties with their liver; and a number have had venereal disease, and so on. We have conducted the examinations to determine whether individuals have these illnesses and get them treated if they need it.

Q Doctor, is a fairly thorough physical examination that you have described important in the treatment of drug addicts?

A I would say it is extremely important. Again, large numbers of the addicts we have seen have been ill, and they need medical treatment.

Q Now, the phychiatric consultation, you said that is initially done. How long is that consultation or observation period?

A From 45 minutes to an hour.

Q And then the physical examination, what occurs after that?

A Well, we, in essence, get all our data together. Each patient is discussed at a case conference of all the staff, and [388] we try to put the whose case together, figure out what kind of treatment is needed, and then talk with the patient about what our recommendation is.

Q When you say, what kind of treatment, are you referring to whether it is going to be detoxification or maintenance?

A Among other things. Also about the psychotherapeutic aspects of the treatment, as well, and why is the person addicted and what happens to be involved in getting over their problem.

Q Upon what criteria do you determine that a person that has come to you for help should be detoxified?

A Well, first of all, we want to, as much as we possibly can, determine that they are taking heroin or methadone. We have gotten a number of people who come to us on methadone; and our attitude is that unless it becomes clear that a person cannot make it on maintenance, we detoxify the person. So maybe a better way to put the question is, how do we decide when to maintain people.

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[393] BY MR. ALTO:

Q Doctor, in the Institute, do you ever write prescriptions for methadone for an addict to go to a drug store and get methadone?

A No, I do not.

Q Now, even in your maintenance program, do you ever write prescriptions for an addict to get methadone in a drug store?

[394] A The only way methadone is ever dispensed in the program is by the nurse, either to be consumed in front of her, or when it has been determined that the patient can take out a certain amount, the nurse gives that amount to the patient.

Q Now, Doctor, I would like to give you a hypothetical set of facts for purposes of the questions I am to ask you thereafter.

Would you please assume that the hypothetical facts are true. Assume that a patient goes in to a doctor's office to be detoxified from heroin use; and that he fills out various forms there; and that the physical examination that is given is his blood pressure is taken, his weight is reported, and he is asked to give an urinalysis.

He then waits; he goes in to see the doctor. The doctor says: What can I do for you? The doctor might ask him to see his track marks. And the patient says: I would like 50 Dolophin pills. The doctor then writes out a prescription for 50 ten-milligram Dolophin pills and he is charged a fee of $15.

Assume further that the patient comes back three days later, goes through the same procedure, goes into the doctor's office and the doctor says: What can I do for you? He says: I would like 75 Dolophin pills. The doctor writes out a prescription for 75 Dolophins, charges $25.

Assume the patient comes back two days later, gets a prescription for a hundred Dolophin pills; and then comes back [395] thereafter over a period of 22 weeks, 48 times, where he receives prescriptions ranging from 50 Dolophin pills to 100 Dolophin pills.

Now, Doctor, is that the accepted medical practice within the District of Columbia in treating addicts?

A No, it is not.

Q I didn't finish the question.

—with respect to detoxifying addicts, is that accepted medical practice?

A No.

Q Is that accepted medical practice, even with respect to maintaining addicts?

A Not for that, either.

THE COURT: Doctor, you have described your procedures.

THE WITNESS: Yes.

THE COURT: Do you have any information as to whether or not your procedures generally conform with medical standards in medical practice in the District?

THE WITNESS: Yes, our procedures conform with the standard as the Drug Abuse Committee of the Medical Society has recommended be used in treating programs of this sort.

THE COURT: When was that done; what date was that done? When were those standards set?

THE WITNESS: Those standards were set some time in '71, as I recall.

[396] BY MR. ALTO:

Q Doctor, are your practices in the Institute consistent with the other drug treatment programs within the District, for instance, the Narcotics Treatment Administration?

A Consistent with it, yes.

Q I believe you testified, when I was going into your qualifications, that you are familiar with programs throughout the country that treat addicts by the use of methadone.

A Yes.

Q Is your method consistent with these other methods throughout the country?

A Yes, they are.

Q Is the hypothetical set of facts I have given you consistent with any method that you know of throughout the United States that is accepted by the medical profession in this country?

A Not that I know of.

Q Now, Doctor, assuming further—and I think I did cite this to you in the hypothetical, but to repeat it—that the doctor charges the patient $15 for a prescription for 50 pills, $25 for a prescription for 75 pills, $35 for a

prescription for a hundred pills, and $50 for a prescription for 150 pills. Is that acceptable medical practice in this city?

A I would say not. Accepted medical practice is that the physician treats the patient and charges for that. If a [397] prescription is given, that is part of the treatment. What the prescription is or how many pills are given does not determine what the price is.

Q That is not acceptable medical practice to charge by the amount that is given in the prescription?

A That is right, yes.

Q Now, Doctor, we have gone into detoxification and how the methadone is given, and everything. What supportive services do you have with respect to helping the addict?

A Well, we have—maybe I should describe our program. We offer psychotherapy and job counseling, primarily. Our therapy involves the patient coming to three group meetings a week, which are conducted by a psychiatrist and ex-addict counselor, working as a team. The ex-addict counselor is present in the clinic all of the time, and meets with the patients informally, in informal groups, and in individual sessions, as the patients are coming in. Our nurse also is involved as a counselor, as well. She knows all the patients and counsels them as they are coming in. Our job counselor also is involved initially with all the patients and is helpful to them in both getting jobs and also in figuring out what kind of jobs makes sense for them, what their difficulties have been prior to that in getting jobs and holding jobs.

I would take issue with your referring to those as supportive services. I see the methadone as supportive and this [398] as being the heart of the program.

Q Oh, my terminology, I am sorry.

Doctor, in line with the hypothetical I gave you, do you recall the hypothetical set of facts I gave you?

A Yes.

Q What are the medical dangers with respect to that type of program?

A Well, first of all, one has no idea how much methadone the individual is taking. One doesn't know whether

he is taking it, whether somebody else is taking it. You don't know whether a child is taking it. If you are trying to detoxify a person, you don't know whether the person is being detoxified or whether they are taking more each day. Also, you have no idea if the individual is indeed taking it at all. Maybe he is continuing on heroin and selling the methadone.

Since you didn't describe urine testing, which is twice a week also part of our program—

Q Doctor, assume this set of facts: That a person comes in and claims to be an addict, takes a urine test, prior to the results of the urine test gets a prescription for 50 Dolophin pills.

Assume further that the urine result comes back the following day, negative on everything, and that the day after that, the person comes back and gets a prescription for another 50 Dolophin pills given by the doctor.

[393] Assume further that four days after that, the patient comes back and gets another prescription from the doctor for 100 Dolophin pills; and assume further that the day after that, the very next day, the patient comes back and gets a prescription for 150 Dolophin pills. That is three prescriptions after the urine result comes back negative.

Now, is the giving of the prescriptions after the urine test came back negative acceptable medical practice in the treating of drug addicts by the use of methadone?

A Well, if a person's urine is negative, I would wonder if they are an addict; and I wouldn't think of giving them methadone if they weren't.

MR. BROWN: I would object to that. It is not responsive.

THE COURT: That is not a proper response. You were asked whether or not that is an acceptable medical practice?

THE WITNESS: No.

BY MR. ALTO:

Q It is not accepted medical practice?

A That is correct.

MR. ALTO: I have no further questions.

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[DIRECT EXAMINATION OF
DR. THOMAS E. PIEMME]

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[444] BY MR. ALTO:

Q Is the method you described consistent with those guidelines set out by the Medical Society?

A Yes, it is.

Q Is it consistent with the procedure followed by NTA?

A Yes, sir.

Q What other groups in the District perform this type of procedure?

A The Psychiatric Institute.

I am not familiar with the specific techniques that are used by Black Man's Development or Bon A Bond. I think they are probably inclined to achieve the abstinent state more rapidly. I don't know the details.

Q From your experience with programs and your studies of programs throughout the country, is the description you gave of detoxification generally consistent with these programs throughout the country?

A Yes, it is.

Q Now, the medication, itself, in detoxification, [445] Doctor, how is it administered?

A Well, that differs from program to program. First of all, almost all of the well-known programs, the major ones in the country administer the methadone on site, under direct observation of the staff. It is usually administered in a liquid form and the liquid methadone is put into Tang, or some other kind of vehicle. It is perfectly obvious. Although several of the programs are now going to large capsules that are large enough that they can be managed by an adult but not by a child.

Q Is the addict, in detoxification, given a number of these capsules to take home, or how does that work?

A No. As we take somebody into our program, whether he is going to be detoxified or maintained on methadone, as most of our patients are for some period of

time, the methadone is administered in the clinic, daily, under direct visualization of the staff.

After four to six weeks in the program, provided that the urinalyses show no abuse of other drug, provided that they have attended all of their therapy sessions, their psychotherapy sessions, and those sessions meet twice weekly, and provided that there is common agreement by the staff that the patient is being entirely honest and cooperating well with the program, then we will give them weekend privileges, that is, allow them to take two doses home for Saturday and Sunday. But for [446] the remaining five days of the week, they still come to the clinic and take their methadone under direct visualization.

Q Doctor, the third aspect of rehabilitating addicts, maintenance, will you describe to the Court and the jury what the accepted medical technique in methadone maintenance is?

A There are two approaches to methadone maintenance. At about 40 milligrams of methadone daily, one can stop the addict's craving for heroin. He is still, however, able to override the methadone, that is, if he uses heroin, he will still get the rush, and still get the high.

There are some patients for whom it is appropriate simply to curb the craving while one is proceeding with rehabilitation counseling and therapy. For many patients, however, curbing the craving isn't enough. For whatever reason, they still go out in the street and still use heroin. One then uses a dose of 80 milligrams or more, which is a so-called blocking dose, that is, 80 milligrams of methadone a day; and even if one goes out in the street and shoots heroin, he will get no sensation from it, so there is no point in using it.

This is why the large-scale programs, Dr. Dole's in New York, NTA here, Dr. Jaffe's program in Chicago, for the most part, achieve the blocking doses to prevent the addict from going out in the street and using heroin; there would be no point to it.

THE COURT: That is around the level of 80 milligrams [447] a day?

THE WITNESS: That is around the level of 80 milligrams of methadone a day.

BY MR. ALTO:

Q Now, the addict who is on maintenance in all the programs you know of, how is the methadone administered on the maintenance aspect of treating the addict?

A Again, on every program it is administered on site until the patient has earned so-called weekend privileges by cooperating with the program, attending all the counseling sessions, and the staff would agree that the patient is reliable, trustworthy, to take the doses home. Everyone is, of course, concerned with the take-home doses about the issue of diversion, diverting the methadone to the street, to the use of persons for whom it has not been intended.

Q Doctor, is it acceptable medical practice in initially treating addicts that they be given a physical examination?

A Yes, it is.

Q What physical examination should be given?

A Well, certainly, there is initially the necessity to determine, if one can, the veracity of whether or not he is an addict, that is, does he have needle marks, does he have tracks, are his pupils constricted, does he exhibit the signs that we associate with dependence upon heroin. Moreover, people who are addicts are subject to other diseases, hepatitis, bacterial [448] endocarditis. I think every addict is entitled to a complete physical examination like any other patient who would come to a physician is entitled to a physical examination to determine the state of his health.

Q Is that the commonly accepted medical practice in the programs you know of, to give an examination that covers these areas, to determine if he has these diseases?

A It is indeed.

Q Doctor, for the purposes of asking you a question that is to follow, I want to ask you a hypothetical question, and I ask you to assume that the facts I am about to give you are true.

Assume that a patient comes into a doctor's office, and he claims that he is an addict ;he fills out various forms. A nurse them administers to him, takes his blood pressure, weighs him, and sends him to the bathroom to give a urine specimen.

Assume then that he goes in to see the doctor; the doctor asks him what he can do for him. The doctor might ask him to see his track marks. The patient then requests Dolophin tablets, ten milligrams. The doctor writes out a prescription for 50 ten-milligram Dolophin tablets. The patient then leaves; fills out the prescription.

Assume further that the patient comes back eight days later, goes in to see the doctor. The doctor says: What can [449] I do you you? And the patient says: I would like some more. And the doctor writes out a prescription for 50 ten-milligram Dolophin tablets.

Assume further that the same procedure persists eight days later, 50 Dolophin tablets; three days after that, 50 Dolophin tablets; ten days after that, 50 Dolophin tablets; three days after that, 50 Dolophin tablets; two days after that, a hundred Dolophin tablets; six days after that, 50 Dolophin tablets; two days after that, 50 Dolophin tablets; four days after that, 50 Dolophin tablets; five days after that, 50; five days after that, 50; two days after that, 50; five days after that, 50; three days after that, 50; two days later, 50; three days later, 100; three days after that, 50; two days after that, 100; three days after that, 100; two days after that, 100; one day, the following day, 100; three weeks later, 50; three weeks later, assume the date is January 5, he comes in during the doctor's office hours between 12:00 and 2:00, and the same procedure happens, and the doctor gives him a prescription for 50 Dolophin tablets; and four hours later, he comes back during the doctor's evening hours, he requests another prescription, and the doctor writes him a prescription for another 50 ten-milligram Dolophin tablets; and then five days later, returns, follows the same procedure, goes in the afternoon, gets a prescription for 50; goes in the evening and gets a prescription for 50; and two days after that, he comes back and gets 100 Dolophin tablets; [450] five days after that, he gets 100; two

days after that, 100; two days after that, 100; four days after that, 50; the following day, 100; two days after that, 50; three days after that, 50; three days after that, 100; and four days after that, 100.

Did you generally follow that, Doctor.

A I followed it.

Q Assume further that the breakdown is that in September, '72, he received 500 milligrams; in October he received 3,500 milligrams; November, 3,500 milligrams; December, 6,500 milligrams; January, 8,000 milligrams.

Now, assuming those facts to be true, is that acceptable medical practice in this city in detoxifying a narcotic addict through the use of methadone?

A No, that is not acceptable medical practice.

Q Is that acceptable medical practice?

A That is not acceptable medical practice in any program that I know of anywhere in the country.

Q Is that acceptable medical practice, Doctor, even with respect to maintaining an addict?

A No, it is not acceptable medical practice for methadone maintenance.

Q Assuming those facts to be true, what are the medical dangers contained within those facts?

A Well, one could postulate risk to the patient from [451] an overdose of methadone; but I think we would all strongly suspect that the patient is not using the methadone. There is then risk to those people to whom he may be giving or selling the methadone, risk to people who might inadvertently come across his supply of methadone. There have been instances of small children, one in this city, two years of age, who died from consuming methadone that was left around the house.

I think those are the risks: Overdose death, not only to patients but to others who may inadvertently use it or to whom it may be sold.

Q What would be a lethal dose of methadone taken by a person who is not addicted, people like you or I or members of the jury?

A I think about 60 milligrams would be a lethal dose for anyone who is not narcotic-dependent; and for a

child, 20 milligrams, depending on the size of the child, could be a lethal dose.

Q Now, Doctor, I am going to ask you to assume another set of hypothetical facts.

Assume the facts I gave you previously were true. Assume further that the doctor charged a fee of $15 when he wrote a prescription for 50 ten-milligram Dolophin tablets; charged a fee of $25 for 75 ten-milligram Dolophin pills; charged a fee of $35 for 100; and charged a fee of $50 for 150.

Is that acceptable medical practice?

[452] A That is not only not acceptable medical practice; that is unethical medical practice.

MR. ALTO: No further questions.

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[CROSS EXAMINATION OF
DR. THOMAS E. PIEMME]

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[459] Q Now, you had indicated further that the blockage level for stultifying, shall we say, an addict's craving for heroin is around approximately 80 milligrams a day?

A Eighty to 120 milligrams a day.

Q Eighty to 120 milligrams a day. Now—

A I am sorry. You say, block the craving. One can [460] abort the craving at 40 milligrams a day. At 80 to 120 milligrams a day, one then blocks the effect of heroin that may be used to override the methadone.

Q I see. Then am I to understand that in order to go beyond blocking the craving, in an effort to block the effect of heroin, it necessarily entails an increase in the doses of methadone to be given to a patient until you reach that level?

A I am not sure I understand.

Q Well, you said that the craving for heroin can be blocked with approximately 40 milligrams.

A That is correct.

Q Is that right. Now, in order, however, to completely prohibit the euphoria that a patient would obtain—

A That is true.

Q —from using heroin, you would have to raise his dosage, would you not, sir?

A That is correct.

Q Now, in that same regard, I again state that your answer to what that amount was, that is ordinarily necessary to prevent the euphoria, is approximately 80 milligrams?

A That is correct.

Q Is it not true, however, Doctor, that where you have a patient who has a high heroin habit, $100 a day, or $300 a day, that he would require possibly a greater amount of milligrams than 80 in order to prevent the euphoria he would [461] obtain from using heroin?

A I am doubtful that he would require more than—no, I am doubtful that he would require more than 100 at the maximum. Even the largest habit one could conceive, it is doubtful he would require more than 100.

Q You feel 80 milligrams a day, regardless of the habit which the addict has, would be sufficient to block the euphoria, is that your testimony?

A That is correct.

Q Now, what about the patient who comes to a doctor, who has already acquired a methadone habit by virtue of previously being in a program, does he not have a high degree of tolerance?

A There are some who do, yes.

Q And do they not require a higher dosage of milligrams in order to obtain the desired effect?

A No, those people—and there are some on record—who have been on very, very large doses of methadone daily, on the order of 150, 200 milligrams of methadone daily, can very quickly, within a matter of a day or two, be brought down to 80 to 100 milligrams of methadone a day and maintained there.

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[DIRECT EXAMINATION OF
AGENT WILLIAM J. MILLER]

[491] BY MR. JOHNSON:

Q Tell me this, sir. What other artifice, if any, did [492] you employ?

A The evening before and then that morning before we came down to Washington, I had taken a pin and placed some pin marks, surface-type pin marks on my right arm, from approximately my wrist up to my elbow.

Q What was the purpose of putting those marks on your arm?

A The same purpose as the clothing, to look like an addict.

Q Beg your pardon, sir?

A The same purpose as the clothing, to look like an addict.

Q Was that to imitate what they call track marks, which you are familiar with as track marks?

A As best that I could. It wouldn't actually be track marks.

Q Now, when you got there, did you give your right name?

A Yes, sir, correct name.

Q Did you have an ID?

A Yes, sir.

Q Did you give your correct ID?

A Yes, sir.

Q And what ID did you have?

A A Maryland Motor vehicle Driver's license.

Q I see, sir. And you didn't give your police [493] identification?

A No, sir.

Q Did you inform the nurse that you were—what if anything did you tell the nurse?

MR. ALTO: I think we ought to have the foundation and dates, if Your Honor please.

BY MR. JOHNSON:

Q Will you tell us what date it was you went there?
A The first date I went there was on January 13, 1972.
Q Now, on that date, did you give a sample of your urine?
A Yes, sir.
Q And what did you tell the nurse on that day about heroin, if anything?
A Nothing.
Q You didn't tell her you had a heroin habit?
A She gave me some forms to fill out.
Q I see. Did you put down that you were a heroin addict?
A Yes, sir.
Q How long did you say you had been a heroin addict?
A I can't really recall, honestly. Probably two years, as best I can recall.
Q How much of a heroin habit did you say you had?
A There, again, I can't really recall. I would be guessing. I would say ten-bag a day, or something like that.
[494] Q Now, you didn't make up this format without some help, did you, or did you make it up on your own?
A I made it up on my own because I didn't know there was a format, that that was the format until I got in there.
Q Is it your testimony, sir, you didn't need any help to know how to masquerade as an addict?
A Well, my own practical knowledge that I derived from the job.
Q And you tried in every way you knew how to masquerade as an addict?
MR. ALTO: Objection. Calls for a conclusion, leading the witness.
THE COURT: Sustained.

BY MR. JOHNSON:

Q Was there anything else that you could have done, from your expertise, your knowledge as a narcotic officer, was there anything else you could have done to make more complete your masquerade as an addict?

A Yes, sir.
Q What else could you have done?
A I could have put methadone in my urine.
Q You could have done that? You didn't do that, sir?
A No, sir.
Q Did he take a sample of your urine?
A Yes, sir.
[495] Q And did he give you a prescription?
A Yes, sir.
Q Now, did there come a time when you returned to him?
A Yes, sir.
Q Did he take your urine that time?
A Yes, sir.
Q Was that the second time?
A Yes, sir.
Q Now, what date was it, the second time?
A That was January the 18th, 1972.
Q Sir?
A January the 18th 1972.
Q Now, did you come with the same dress or did you use any different dress?
A Basically, the same. I had another jacket; I had an army jacket which I wore.
Q I see. Did you do anything else other than what you did when you first went there?
A I didn't do as much as I did the first time.
Q I beg your pardon?
A The marks that I had were no longer present. I did not put them on again.

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[CROSS EXAMINATION OF
AGENT WILLIAM J. MILLER]

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[502] Q Okay. Now, the second time you went back, I believe you testified, was January 18?

A Yes, sir.

Q What happened when you went into his office then?

A On the 18th, I went up to the nurse and presented my driver's license, which I used the first time for identification. She got my file out of the file cabinet, placed it in a pile with the other ones.

I began waiting around. I waited for approximately I believe it was two hours, quite some time, until I finally got in line and lined up with the approximately five people that were waiting to go into the doctor's office.

I went into the doctor's office and sat down. He again said: What can I do for you?

I said: You had given me 50 last time, and that wasn't enough; I had to go out on the street.

[503] The Doctor said: I can give you 50, 75 or 100. Just tell me how many so we can move along here.

I said: Well, give me a hundred.

And then he said: How about you settling with me while I settle with you.

I asked him: How much?

And he said: $35.

And I paid him the $35.

Q And you got a script for a hundred?

A Yes, sir.

MR. ALTO: Your Honor, may I have this marked as Government's Exhibit—

THE DEPUTY CLERK: No. 23. Government's Exhibit No. 23 marked for identification.

(Whereupon, Dr. Moore's file on Mr. Miller, was marked Government's Exhibit No. 23, for identification.)

BY MR. ALTO:

Q I hand you what has been marked as Government's Exhibit No. 23, and ask you if you recognize your handwriting signatures on any of these items contained in that jacket?

A Yes, sir.

Q Now, do you see your name on top of any of those results of urine tests?

A Yes, sir, I do.

[504] Q Okay. What is the return date on the first urine test you took there?

A The return date is January 15, 1972.

Q What was the result?

A The result is negative for any narcotics.

Q You got a script on the 13th. Your urine came back negative on the 15th. He gave you a script for a hundred on the 18th, isn't that true?

A Yes, sir.

Q Did he say anything about the negative urine?

A No, sir, he didn't.

Q Now, these marks you put on your arm, you have dealt with addicts since you have been with the Bureau; you have seen track marks; is that correct?

A Yes, sir.

Q Were they track marks or what do track marks really look like?

A Track marks are scar tissue, the veins appear black, darker than normal. I have seen addicts with abscesses, and particularly scar marks like where the skin hasn't grown back properly.

The marks that I put on my arm were just surface pin marks, which were no more than or less than 24 hours old, every one of them.

Q Now, you gave another urine specimen that day, the [505] second time?

A Yes, sir, I did.

Q Okay. When is the next time you went back, the 24th of January?

A Yes, sir.

Q What happened when you went into his office that time?

A On the 24th, again, it was quite crowded. First of all, I had to wait in line outside. When I finally got into the building, I showed the nurse my driver's license again; she again took the folder out and placed in on top of the cabinet. After some time I finally got in line and my turn was called; and I went in the Doctor's office and sat down.

Dr. Moore said: What can I do for you?

And I said: You gave me a hundred last time. Can you give me a hundred more?

And, basically, that was the conversation. He wrote the prescription for a hundred; I paid him the $35 for it.

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[CROSS EXAMINATION OF
THOMAS W. MOORE, JR.]

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[682] Q Let me ask you this, Doctor: Is methadone an addictive narcotic drug?

A Yes, it is.

Q Is it also a dangerous drug?

A Yes, it is.

Q Is it also an abusable drug?

A If not used properly, it is dangerous.

Q Is it also an abusable drug?

A Yes, it can be abused.

Q And the form in which you were prescribing the Dolophin [683] tablets in the form in which addicts can cold cook it and inject it, is that right?

A If an addict is so—

Q Inclined?

A —inclined.

MR. BROWN: I will object. I think this witness ought to be able to answer his own question.

THE COURT: Don't interrupt the answer.

MR. ALTO: I am sorry, Your Honor.

THE WITNESS: If an addict is so inclined to do so, he can. By this process of cold cooking, I think you mean—What do you mean by cold cooking?

BY MR. ALTO:

Q What I mean, Doctor, if you could kindly give me an answer to my question, is the Dolophin pill the kind that the addict can inject?

A Yes, that is the only type that private physicians can prescribe.

Q Would you answer my question?

THE COURT: That is not the question, Doctor.

BY MR. ALTO:

Q Is a Dolophin tablet what an addict can inject?

A An addict can inject a Dolophin tablet, yes.

Q And did you promise that Grand Jury on October 22, 1974, you would not write prescriptions for methadone that could [684] be injected?

Did you promise them that?

A I don't know if I promised them. I told them I wouldn't. I don't know if I used the word, promise, or not. I might have.

MR. ALTO: Page 14, Mr. Brown.

"Question: And you will not issue methadone prescriptions to addicts or anyone else which can be injected?

"Answer: No."

Do you recall that question and your giving that answer?

THE WITNESS: Yes.

THE COURT: And that is what he has just said now on the stand.

THE WITNESS: Yes.

BY MR. ALTO:

Q Was that a promise, Doctor?

A That was a statement. It was a question and I answered it. If you see the word, promise, in there, I wish you would read it.

Q Was that a firm statement to the Grand Jury?

A That was a firm statement.

* * * *

[688] Q Now, did you also tell that Grand Jury, Dr. Moore, did you promise them that you would abide by the urine results in screening an addict?

A Yes, I did. I don't know what my exact statement was [689] but I do remember agreeing to follow a urine testing schedule.

Q Would this be your exact statement, Doctor?

MR. BROWN: Objection.

THE COURT: He is refreshing his recollection, Mr. Brown.

MR. BROWN: He needs to ask him, would it refresh his recollection.

THE COURT: Well, he is about to do it.

BY MR. ALTO:

Q "Question: And are you going to set up some screening measures and what would they be?

"Answer: Well, the main one would be urine, the screening of a patient's urine, taking a urine sample, sending it off to an appropriate laboratory and abiding by that particular result."

Is that what you said to the Grand Jury in October '70?

A If it is written there that way, then I said it.

Q Would you like to look at it, Doctor?

A No, I don't need to look at it. I will take your word for it.

Q Did you promise you would abide by the urine result?

A Is the word, promise, in there?

Q Did you make a firm statement to the Grand Jury?

A I made a firm statement.

Q I want to hand you Government's Exhibit No. 4, [690] Lynn Ryan, urine results negative all the way through; yet she got script.

Did you abide by the urine results with that patient?

A No, no, I did not.

Q How many script did you give her after the urine result came back negative?

A I gave her her initial prescription, and then I gave here three other ones.

Q Three more in increasing dosages, the last one being 150?

A 150.

* * * *

[706] Q Did you also make a firm statement to that Grand Jury that: This is going to involve more than one urinalysis; that this will be the control. As the person is taking the medicine, [707] you would have to make sure he was staying drug-free. Did you tell the Grand Jury that?

A I might have, Mr. Alto, but that was quite some time ago.

Q Let me have you look at it, Doctor, to refresh your recollection, the last question on Page 21, and the last answer.

A I see the question here to read:

"This may entail more than one urinalysis."
I want to stress that word, may.

"This may entail more than one urinalysis. It may entail several urinalyses.

"Answer: Yes. This would be the control, as the person is taking his medicine, to make sure he is staying drug free."

Q That was your answer, is that right?
A Yes, I have to abide by what was written there.
Q Doctor, you put a witness on the witness stand, a Mr. Steptol.
MR. BROWN: Objection. This Defendant put no witness on the stand; his counsel did.
THE COURT: You stand corrected, Mr. Alto.
MR. ALTO: Sorry.

BY MR. ALTO:

Q Your counsel put on the witness stand a person who testified for the defense by the name of Steptol, isn't that [708] correct?
A Yes, sir.
Q Were you making sure that that man stayed drug-free, as you told the Grand Jury?
A I understand from Mr. Steptol that Mr. Steptol now is drug-free.
Q During the time you were treating him and after you told the Grand Jury that you were going to make sure the urines were drug-free, were you abiding by that statement to the Grand Jury with Mr. Steptol?
A It arrived a point after my testimony with the Grand Jury that I decided that the guidelines for my particular program did not require a urinalysis, that in all instances was not true, you know, was not a true result. So I felt it absolutely senseless to continue, you know, a faulty procedure. They could use a test tube that was dirty, and all of a sudden, I have a patient with a positive urine result. Now, who wants to put that kind of burden on a patient.
Q Did you try to go back to the Grand Jury and tell them that you weren't going to make sure they are drug-free in their urine?

A I did not even know I had the right to go back to the Grand Jury.

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[711] Q Now, Dr. Moore, when your IND number was taken away, you only had authority and you knew you only had authority to detoxify people, is that right, addicts?
A (Witness nods assent.)
Q Can you describe to this jury what short-term detoxification is?
MR. BROWN: He has been asked the question. Was there an answer as to the first question?
MR. ALTO: You nodded.

BY MR. ALTO:

Q What was your answer to the first question?
A I will do it again if you want me to. I did it this morning but—
THE COURT: No, the problem is, Doctor, you responded by a head shake, and I guess the record doesn't show whether it was affirmative or negative.
You were answering affirmatively, were you?
THE WITNESS: I am sorry.
THE COURT: I am not criticizing you. The first question is: You knew you could only detoxify after your number was taken away?
[712] THE WITNESS: Yes.
THE COURT: All right.

BY MR. ALTO:

Q Okay. Can you describe to the jury—
A There was some difference of opinion. That was my understanding. Now, on consulting with legal counsel and their reading—
Q Which legal counsel now, Mr. Moore?
A Eventually, I discussed this problem with Mr. Brown, a long time before I hired Mr. Brown. He had been referred to me by the Dean of Howard's Law School as a good attorney; and I was in between attorneys; I didn't feel I was getting the proper legal advice. I felt that I was being grossly overcharged.

Q Doctor, let me stop you there. Mr. Jacob Stein represented you at the Grand Jury, didn't he?

A At the Grand Jury.

Q Wasn't he the President of the Bar Association?

A Now, I wish to qualify that last statement.

THE COURT: Let's not get into a discussion of the qualifications of different members of the Bar.

When did you have any reason to believe that you had authority to do more than detoxify, what date?

THE WITNESS: I don't know exactly which date, Your Honor.

[713] THE COURT: See if you can estimate it for me, then.

THE WITNESS: I can't estimate at all.

THE COURT: Very well.

THE WITNESS: But for months, I was under the opinion that all I could do was just detoxify people.

BY MR. ALTO:

Q For months. Doctor, let me hand you a prescription dated February 8, 1972, three days before you closed down.

Is that one of your prescriptions?

A Uh-huh.

Q Did you rubber stamp that?

A Yes, sir.

Q Did you rubber stamp that?

A Yes, sir.

Q What does the rubber stamp say?

A "Take as directed for detoxification." That is for a hundred tablets.

Q Doctor, isn't it a fact around November 1 all of these prescriptions have that rubber stamp, "As directed for detoxification," or do you want to look at all of them?

A No. This was done with a purpose.

Q Well, you understood what your authority was?

A Yes.

• • • •

[715] Q Doctor, what did you say to these people that came in beside, What can I do for you; that will be $15, $25, $35? [716] What else did you say to them?

A We said quite a few things. It would depend on the patient, what other problem he had. We would sit and talk. This is why I always carried them in my office where it would just be the patient and myself. He would take a seat on one side of the desk; I would be on the other. I had a radio that used to play behind my right ear, that used to scramble my voice, so anyone standing outside couldn't hear a private conversation; and the patient would talk; and I would listen; and whatever he wanted to talk about, he talked about.

Q Let me ask you this:

A Now, this, to me, was the counseling of my patients.

Q What were your office hours, Doctor?

A Well, they varied. I asked the nurses to be there 11:30 in the morning.

THE COURT: He is talking about office hours, Doctor.

THE WITNESS: Twelve to two, and five to eight; but I was never able to keep those hours.

BY MR. ALTO:

Q Doctor, let me ask you this: There has been an item admitted into evidence, Exhibit No. 22, which shows on January 5, 1972, you wrote out 271 prescriptions.

Where did you get the time to consult and talk with patients, if you were writing out 271 prescriptions—saw 271 patients?

[717] A One would have to assume from that, right there, that I talked very fast or I write very fast, and possibly both.

Q Doctor, there has been testimony in these records admitted into evidence to support that between September and February there were 54 days when you issued over 100 prescriptions, that means over a hundred patients, in your office hours. How did you counsel them? How did you motivate them? Will you tell the jury that?

A Because it was impossible for me at any time in the last three years to hold office hours between twelve and two and five and eight. That is, from twelve until whenever we finished; and sometimes we didn't finish. Sometimes we went straight through, all the way, and the neighbors used to comment. They would say: Jesus, Doctor, you overlapped yourself that time, didn't you?

• • • •

[722] Q Did you consider the aspect of those people who got their freebees selling them on the street?

A These were only given to certain patients for certain reasons, that is, no charge was made. To persons —like I said, I had to treat, and I still do treat every patient who comes in as a particular patient. I don't have a blanket set of rules [723] for my office, outside of keeping quiet and no fights and no drinking, and that sort of thing.

Q What was the rule you expressed to the jury as to why you charged $15 for a script of 50, $25 for 75, $35 for a hundred; and there has been testimony—did you charge $50 for 150?

A Fifty dollars for 150, yes.

Q How much did you charge for 200 pills?

A When I rarely gave 200 pills, I would charge—this would depend. If it was a family, say, a husband and wife—if it was just a single person, that would come to $70. Now, if both the husband and the wife were both addicted, we could see that this is—we are talking about $140 from just that one family, and we are talking about a fellow who might have a job, they are only paying him, maybe, between 75 and maybe 85 or 100 dollars a week.

Q Do you know of any other doctor who charges graduated fees, depending on the amount he writes on the prescription?

A I don't know two doctors in town that do the same procedure in anything.

Q Do you know anyone, Doctor, who charges based on the amount he writes in the prescription, graduates it?

A Yes.

Q You do, Doctor?

A Me.

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[716] BY MR. ALTO:

Q Doctor, do you agree with this statement: That if the procedure of treating addicts by the use of methadone is conceived as no more than an unsupervised distribution of narcotic drugs to addicts for self-administration of doses and at times of their choosing, then few physicians would accept it as proper medical practice, an uncontrolled supply of drugs would trap confirmed addicts in a closed world of drug taking and tend to spread addiction.

Do you agree with that statement?

A Would you read that statement to me again? It covers quite a few words.

Q If the procedure of treating drug addicts by the use [762] of methadone is conceived as no more than an unsupervised distribution of narcotic drugs to addicts for self-administration of doses at times of their choosing, then few physicians would accept it as proper medical practice, an uncontrolled supply of drugs would trap confirmed addicts in a closed world of drug taking and tend to spread addiction.

Do you agree with that?

A No, I do not agree with that because that runs contrary to exactly what I was doing.

• • • •

[V-6] Q Right, and going back to what you developed before the Grand Jury on October 22, 1970, didn't you also tell them that in the future of your program you were going to consult with Dr. DuPont and run the city program the way the Bureau of Narcotics and Dangerous Drugs said it should be run?

A Yes, but I found out that that was impossible to consult with Dr. DuPont.

Q Well how about other doctors who were running the city programs?

A The only doctor that I knew of who was running the city program, ran it and the only one was Dr. DuPont and Dr. DuPont made the point also that the city run program was to be handled their way but it

was impossible for me to consult with Dr. DuPont. Dr. DuPont was supposed to be at a series of meetings given by the D.C. Medical Society and it was [V-7] just impossible to speak to him—there were to be present these three men that were involved with Dr. DuPont in an attempt to lay out an attack against drug addiction in Washington, D.C. and surrounding areas, but none of these were at the meeting, you know, with Dr. DuPont.

Q Did you ever confer with Dr. DuPont about the matter of detoxification?

A I went down to Dr. DuPont's office and he and I had a conversation.

Q Did you talk about his program and how he detoxified and how he maintained and controlled the supply of methadone to addicts?

A No, because I already had this information on hand. One of the persons that was working in Dr. DuPont's program, one of the counsels over at 14th and Q, supplied me with this information and I was able to read it.

Q Well the fact of the matter is that you did not adjust your program as you told the Grand Jury in line with the city program or in line with what the Bureau of Narcotics and Dangerous Drugs said you ought to do or the Food and Drug Administration?

A I adjusted my program after talking with Dr. DuPont and after reading the literature that I cited in my protocol.

Q You mean the article by Lady Frankel?

A All of those articles that you have there.

[V-8] Q Well what other doctor in this country for the record has given out prescriptions in the amounts and times that you did—what other doctors follow your method?

A I don't know of any other doctor in this country that follows that method. I am not saying that there is no other doctor that follows the method but there may very well be. I just don't know of him—he has not written anything in the literature to that effect.

Q Then you will admit, Dr. Moore, that your conduct and practice was not in accordance with the standards of ethical practice generally recognized in the United States for the detoxification of addicts?

A No I cannot say that. The only thing that I can say is that my way of treating drug addiction possibly was not in accord to the way that Dr. DuPont or the way that the D.C. Med. Society would feel that drug addiction should be treated in Washington, D.C. In fact, the D.C. Medical Association took the position that they hadn't given any physician authority at all to treat any addict in his office on a patient-doctor relationship.

Q Well the D.C. Medical Society set up guidelines, isn't that right—

A Well this was—

Q They set up guidelines on April 1, 1971 as to how a private physician ought to detoxify?

[V-9] A They set up guidelines.

Q And you didn't follow those guidelines, did you?

A No, but I was at a meeting when the guidelines were presented to me and other doctors were also at this meeting—

Q So you were fully aware of those guidelines, is that correct?

A Yes I was fully aware and I have testified about the guidelines before the City Council.

Q Doctor, is there not a standard set out in these guidelines here and everywhere else in this country that within a week's time you detoxify someone to get him to hold a level where he won't get ill, and then you gradually reduce the doses until he is drug free. Is that not the standard for detoxification in the country?

A That is the standard method in Washington, D.C. but when you say if it is the standard in the rest of the country I don't know. I don't know what the rest of the country is doing. I haven't travelled in this country outside of Washington, D.C. for quite some time and I don't know what the rest of the country is doing. The only thing I know is that the rest of the country is not doing enough in the fight against drug addiction. That is one thing I do know.

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[V-22] Q And then didn't they [Federal Food and Drug Administration] send you a letter on April 23, 1971 setting out the deficiencies that you had agreed to

correct and what you had agreed to do to correct them. Do you recall that letter?

A I don't recall the letter. I recall receiving a letter—

Q You do?

[V-23] A Do you have a copy of that—does the U. S. Attorney have it?

MR. ALTO: I do. Your Honor, this is Exhibit 30.

THE COURT: Yes, you may refer to it.

BY MR. ALTO:

Q I hand you Government's Exhibit No. 30 and refer you to this letter which is dated April 23, 1971 and it is addressed to you.

THE COURT: It has been marked but you may show it to Mr. Brown.

MR. BROWN: I don't mind him looking at it, Your Honor, but we would like to be just apprised of what it is.

MR. ALTO: Well it is an exhibit marked for identification as Number 30.

THE COURT: Well Mr. Alto would you just hand it to Mr. Brown and let Mr. Brown look at it.

(Whereupon defense counsel exhibited the document marked as Exhibit No. 30 for identification)

THE COURT: Alright, doctor, you may now answer the question.

THE WITNESS: Yes, I remember receiving this letter.

BY MR. ALTO:

Q This letter?

A Yes.

Q Alright, now did it tell you that in view of the [V-24] potential danger to the public health from opportunities for diversion of methadone and of the danger to the health of individual subjects who may not be trully dependent on narcotics from administering methadone to them, that they found certain requirements to be absolute necessities in your program and that you had agreed to the following changes to be instituted immediately:

"1. Admit no new subjects to the methadone maintenance program."

Do you recall that?

A I recall that.

Q And they told you that because you had plenty of patients, isn't that right?

A No, no, they didn't tell me that for that reason. Every one of those points that you have there, I had given them while I was talking to them. These were my recommendations that on a telephone call to Dr. Scoville, I myself composed those, that whole letter.

Q But you did after you composed that whole letter, you did agree to admit no new patients to the program?

A Yes, because at that time the FDA and myself were in disagreement as to the best possible way to treat drug dependence in the Metropolitan area and I called Mr. Scoville up and I quoted to him or a spoke to him over the phone as to what steps I would take until this difference of opinion was [V-25] resolved, and what you are also reading was in gist was delivered by me, hand delivered, to the chairman of the Committee for Drug Abuse for the District of Columbia. Dr. Scoville didn't compose any of that letter—all of that language right there is mine, and the only thing he did was copy it down and then mail me a letter to that effect, after attaching that first paragraph you just read.

Q Then it is true that you yourself said "I will admit no new patients to my practice"?

A During that time over our difficulties or our disagreement—I should say, myself and the Food and Drug Administration.

Q Is it not a fact that you violated that and you did admit new patients?

A Er—after I thought—in fact, Mr. Ungar who at that point was my attorney, terminated, was explaining back and forth with Dr. Scoville by phone—I was always in Mr. Ungar's office when these phone calls were made—no, no, no, no—may I retract that?

Q Well could you just answer the question? Did you in fact admit new patients in violation of this admonition?

A Yes, yes, after—

Q As a matter of fact, Dr., is it not true that—

A After, after negotiations were undertaken by Mr. Ungar and Dr. Scoville at the FDA.

* * * *

[V-27] Q Now, doctor, is it not a fact that after this letter was sent you took into your program Bobbie King, Forris Ensor and Jerome Brooks, three of the witnesses that I have put on the witness stand?

A I wouldn't know unless I saw the records.

[V-28] Q Well here is the jacket on Bobbie King which is Government's Exhibit No. 1. What is the date that he came into the program?

A Bobbie King came into the program 6.10.71.

Q June 10, 1971, after this letter and before you got your IND terminated, right?

A What is the date of that letter?

Q April 23, 1971 and you were terminated in July, right?

A Yes, he came into the program in the next month.

Q Well where is the laboratory testing in that file on Bobbie King?

A Bobbie King, Bobbie King did not go for his examination but my records bear out as of 6.10.71 Bobbie King's records are stamped that he was received into the program and he was sent for chest-at the time he was sent for laboratory studies and he was given 44 cc's of methadone.

Q Well what were the results of that chest film, was it, at the lab and the laboratory testing?

A Bobbie King obviously didn't go. The only thing that I can do since I don't have lab facilities in my office, if this extends to the manner of testing that the Food and Drug Administration wanted—the only thing that I could do was as any other doctor, instruct the patient that it is vital that certain laboratory tests should be conducted and as [V-29] recommended at certain places, and tell him where to go and give him the address of the laboratory testing, marked off on an order form as to exactly what tests I wanted and, as a matter of fact, I contacted the man who was in charge of the BNW State Laboratory and told him what tests I needed

for the FDA and he gave me a special price, a lower price than they would normally charge. I think he told me he charged normally for that work, it was $25 and he told me if all my patients came up he would do it for $15 and I passed this information on to every single one of my patients who came in during this discussion period, this difficulty and this disagreement with the FDA—every patient that came in was instructed to go and have these tests done.

Q And Bobbie King didn't get those tests done, right?

A Bobbie King didn't get them done. He didn't go and get the testing.

Q And did it make any difference to you—it didn't, did it?

A Yes, it made a lot of difference to me.

Q But you kept on giving him methadone, didn't you?

A Because he needed it and I, as his physician, felt that I was ethically bound to give this man his medication as long as it was available.

Q Well, doctor, didn't that statement of the Food and Drug Administration say "all patients who have been in your [V-30] program of methadone maintence therapy will receive laboratory testing as outlined in the Federal Register"?

A "will receive" or may receive, but this is the only time, as I mentioned, this was the only time that we were in total disagreement as to exactly how drug dependents should be treated and Dr. Scoville—

THE COURT: Just a moment, may I interrupt you, counsel would you approach the bench?

(At the bench)

THE COURT: Mr. Brown, I think the record will reflect my patience with your man, but he is not being responsive here. He is just wandering all over the record and he isn't getting down to anything. I have not wanted to intervene and start directing him because I don't want any remark of mine to be an influence on the jury so I haven't spoken about it but I really think it has reached a point where we have to have some responsibility in terms of the administration of this trial as

reflected in the record. This man has just gone all over the lot and there is no way to control his responsiveness or anything else and, as I say, we just have to do something if this trial is ever going to end.

MR. JOHNSON: May I suggest to Your Honor that we have a five minute recess.

THE COURT: Well I have tried that before and I am not willing to try it again. I would like to move this case.

[V-31] MR. JOHNSON: Yes.

THE COURT: I just wanted to let you know that I have got to do something to see that this case proceeds in accordance with the standards. He has had ample opportunity for the jury to get a feeling of his personality and his dedication or whatever it is.

MR. BROWN: Well I would like Your Honor to know we are in complete agreement with you. We have a client who has that type of personality problem and we would not ask for a recess except in view of Your Honor's feelings just as an extra precaution before the intervention of Your Honor, is you would give us this one last opportunity.

THE COURT: Well, yes, I will do that. That is why I called you up.

MR. JOHNSON: We will speak to him, yes.

THE COURT: As I say, I have been staying out of it and it has taken some patience on the part of the court, I can assure you.

MR. BROWN: Yes, Your Honor, and it has caused some anxiety on my part, I can assure the court.

THE COURT: Oh yes, and I don't think at this stage it is helping your client, either, because he is just repeating himself. I think we ought to move along so we will take a ten minute recess at this time if that is agreeable.

MR. ALTO: Certainly, Your Honor.

[V-32] (End of bench conference)

(Whereupon a ten minute recess was taken)

MR. ALTO: Now I show you Government's Exhibit No. 6 in evidence which is the file of Forris Ensor.

Would you look in that file, doctor, and see when he came into your program?

A Mr. Forris Ensor entered my program on the 6th, 6.10.71.

Q The same day as Bobbie King, wasn't it?

A The same day as Bobbie King.

Q Was he ever sent to have laboratory testing?

A Yes he was.

Q And where are the results?

A I have no results. The patient didn't go.

Q And that didn't make any difference to you?

A Whether he went?

Q Right.

A No, it didn't make any difference to me.

Q Even though you testified you had been told that it was required in this letter that they would receive lab testing—it didn't make any difference to you?

A This was a stipulation under the maintenance program. It was never my intent to maintain the program, to maintain patients. My intent was to detoxify patients and get them off completely, off of all drugs.

Q Doctor, wasn't your testimony initially when I [V-33] showed you this letter that you are the one that composed the letter and you are the one that set out these requirements?

A Yes, that's true.

Q And Government's Exhibit No. 13, I believe, is the file of Jerome Brooks, another witness who has testified in this case. When did he come into your program?

A He entered the program on 5.28.71.

Q Was he sent for laboratory testing?

A Yes he was.

Q What were the results?

A Mr. Jerome Brooks was sent on 5.27.71 for chest film, lab testing and he never went.

Q Doctor, then you admit that the first three requirements set out by the FDA or that you claim you dictated to them, you violated, is that correct?

A As a maintenance program, yes. I never wanted to maintain patients on methadone. I wanted to make them completely drug free.

Q Did they further send out to you or did you dictate this to them:

> "In possible new subjects, monitoring by you or your delegate of ingestion or the investigational drugs by the subject, daily during the initial weeks of administration"

Did you comply with that?

[V-34] A No I did not. We are constantly talking about the maintenance program and the IND number which I totally disagreed with.

Q But you dictated this letter for the FDA, you say?

A Yes, this was—this was because this was the only thing that I could obtain, the only reason I could obtain methadone, to give to my patients, to detoxify them and make them drug free. This was the only way I could do it.

Q Was there further stipulation as to regular testing for drugs on the subject's urine collected under surveillance and the recording of the results in detail, as to relative findings adequate to establish diagnoses of current dependence on drugs, did you comply with that?

A No.

Q None of the urine was taken under surveillance, is that it?

A Only near the end of my program when I got, I got the vague impression that persons who were coming to me might not, er, might not be addicts.

Q You say at the end of your program or near the end of your program?

A Yes, at that time I would have the guard take the male patients back to make sure that it was, that the particular person urinated in the bottle, and I would have one of my nurses take the female patients back.

[V-35] Q And your program ended on February 11, is that correct?

A My program ended on February 11, yes.

Q Was January 25th near the end of your program?

A No it was not.

Q Well when did you start having urines collected under surveillance?

A When I felt that what I was hearing from my patients did not constitute what the really drug dependent person would say to a doctor when asked what his problem was and on my observation of that particular patient as a doctor, I began to have doubts as to whether certain people coming into my office were in fact drug addicts.

THE COURT: The question is: what date between the 25th of January and the 11th of February did you reach such a determination?

THE WITNESS: Honestly I don't, I don't know which date it was. It was never marked down any place.

BY MR. ALTO:

Q So, doctor, all of the guidelines they sent out to you you violated?

A I can't say all of them. You are talking about all of the guidelines in 134.44?

Q I am talking about the letter that they sent to you that you say you dictated.

[V-36] A Yes.

Q And in that statement, does it not nevertheless say "failure to comply will force us to consider terminating your IND number"?

A I didn't, if you are reading the letter, yes I would say that was generally done—that I and my attorney at that time were receiving from the FDA—

Q Just a minute, I hand you the exact statement and in the last sentence of that letter, if you will read that—

A That is the last sentence of the letter.

Q So you were warned by that that if you did not comply with these conditions you were going to be revoked?

A Yes.

Q And there came a time that they came back and reinspected you to see if you were complying with these conditions, isn't that correct?

A Yes.

Q And on June 28, 1971 they sent you a letter terminating you, isn't that right?

A I don't, I don't remember the date but the letter was hand delivered and it had a date July 28, I believed, that the number would be terminated.

Q I hand you the same exhibit, Exhibit No. 30, and direct your attention to the letter dated June 28, 1971 addressed to you. Is that the letter you received from them?

[V-37] A This is the letter I received from them.

Q And in that letter, doctor, didn't they tell you they were terminating your number because of the manner in which you were using the drug, because the manner in which you were using it was unsafe and further that the investigation was not being conducted in accordance with the plan as submitted, and that the investigation presented imminent hazard to the public health, primarily due to indirection of the investigation —didn't they tell you that, doctor?

A That is what they told me by letter, that is not what they told me in person. That was a letter they released to the news media also.

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[RECROSS EXAMINATION OF
THOMAS W. MOORE, JR.]

[V-58] Q Didn't Mr. Jacob Stein, as the result of that conference with Mr. Glanzer where you were present and there was a detailed conference where you agreed to iron out certain things with respect to dealing with methadone, isn't that correct?

A Right.

Q Didn't Mr. Stein send you a memorandum as a result of that conference and the agreements that you and Mr. Glanzer had reached and didn't you receive that letter?

A Yes, sir.

Q And didn't you violate every one of those advisements that he put in that memorandum?

A I don't know if I violated them, every single item in that memorandum, I don't remember it word for word.

(Whereupon a document was marked for identification as Government's Exhibit No. 31)

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[INSTRUCTIONS TO THE JURY]

[V-134] THE COURT: (THE HONORABLE GERHARD A. GESELL): Ladies and gentlemen of the Jury: We have reached that stage in the case where it becomes the duty and obligation of the Court to instruct the Members of the Jury as to the law. You are required to follow these instructions in exercising your responsibility, which is to pass on the facts of the case. You may not question any rule of law as the Court states it to you. You are the sole judges of the facts and you must determine the facts from the evidence you have heard from the witness stand, from the exhibits in evidence, from any stipulations of counsel, and the inferences reasonably deducible therefrom.

What the Court proposes to do is to first discuss with the Members of the Jury certain basic, fundamental principles of law that apply in any criminal case tried in this courthouse, and in this courtroom, under the Constitution and Law of this country.

Then the Court proposes to turn to a discussion of the elements of the offenses charged, bringing into focus clearly what the factual issues presented to you are in this case. You have just heard the able arguments of counsel on both sides. What the attorneys say is not evidence. If your recollection differs from the recollection of either of the attorneys, it is your recollection and your recollection alone, which controls.

[V-135] The arguments, or summary arguments, as they are sometimes called, are limited and, if in the heat of advocacy or in the short time they have available, the attorneys failed to mention some aspect of the evidence which came to your attention, you must consider that as well as any evidence which was mentioned by either of the attorneys.

The function of the Court, as I am sure you well know, is to attempt to conduct an orderly and efficient trial, to rule on matters of evidence or procedural questions that might arise in the course of the case, either up here at the Bench or when we were discussing some kind of legal problem or ruling on something in open court. Occasionally, the Court in this trial and in every

trial, as asked questions of some witness or other, or has asked something of Counsel. You are not in any way to draw any inference of any kind as to how the facts should be decided in this case from anything that the Court has done or said in the course of this trial. There is nothing that I am going to do or say in the course of these instructions which is intended to convey to you how the Court feels the facts in this case should be determined because I again say and emphasize to you that you are the sole judges of the facts.

It is my obligation to present to you the underlying legal considerations which should guide you in your determination of the facts.

[V-136] I have emphasized the necessity of your deciding this case upon what has occurred here in the trial. You must decide the case solely on evidence presented and you must completely disregard any press, television or radio reports which you might have read, seen or heard.

Every defendant in a criminal trial is presumed to be innocent, and this presumption of innocense attaches to a defendant throughout the trial. The burden is on the Government to prove the defendant guilty beyond a reasonable doubt. If the government fails to sustain this burden then you must find the defendant not guilty.

The Defendant is not required to prove his innocense under our system of jurisprudence.

Now, counsel have used the term "reasonable doubt" and the Court will use the term "reasonable doubt" on a number of occasions and it is important that you understand what is meant in law by this term. It is a doubt based on reason. It doesn't mean any doubt whatsoever; it is not a fanciful doubt or a whimsical doubt, or a doubt based wholly on conjecture. Proof beyond a reasonable doubt as proof to a moral certainty, but not necessarily proof to a mathematical or scientific certainty.

A reasonable doubt is one which is reasonable in view of all the evidence. A Defendant is never to be convicted on mere suspicion or conjecture, or the mere [V-137] possibility of guilt. A reasonable doubt may arise not only from the evidence produced, but also from the nature of the evidence or the lack of evidence. Perhaps

this will assist you to better understand what the Court has in mind: If, after impartial comparison and consideration of all of the evidence, you have such a doubt as would cause you to hesitate to act in matters of importance to yourself, then you have a reasonable doubt, but, if after such impartial comparison and consideration of all of the evidence, and giving due consideration to the presumption of innocense which attaches to the Defendant, you can truthfully say that you have an abiding conviction of the Defendant's guilt such as you would not hesitate to act upon in the more weighty and important matters relating to your own personal affairs, then you do not have a reasonable doubt.

Now, as the sole judges of the facts, you are the sole judges of the credibility of witnesses. You must, of course, as I am sure you understand, weigh the testimony of all of the witnesses who have appeared before you and all the facts and circumstances concerning which testimony has been introduced.

As the sole judges of the facts, you are the sole judges of the credibility of the witnesses. In other words you and you alone are to determine whether to believe any witness [V-138] and the extent to which any witness should be credited. In case there is any conflict in the testimony, it is your function to resolve that conflict and to determine where the truth lies.

As you know, the Defendant is permitted to become a witness in his own behalf. His testimony should not be disbelieved because he is the Defendant. In weighing the testimony, you should appraise his testimony by the same standards as to credibility which the Court has now indicated to you are applicable to any other witness and, in the end, you should give his testimony such weight as in your judgment you feel it is fairly entitled to receive.

Now, in reaching a conclusion as to the credibility of any witness, including the Defendant, and in weighing the testimony of any witness, you may consider any matter that you feel has a bearing on the subject. You ought to use your every-day common sense. For example—you may consider the demeanor and the behavior of the wit-

ness on the witness stand, the witness's manner of testifying whether the witness impresses you as a truth-telling individual, whether the witness impresses you as having an accurate memory and recollection, whether the witness has any motive for not telling the truth, whether the witness had a full opportunity to observe the matters concerning which he testified, and whether the witness has any interest, vital or otherwise, in the outcome of the case.

[V-139] You may consider the reasonableness or the unreasonableness, the probability or the improbability, of the testimony of a witness in determining whether to accept it as true and accurate, and you may consider whether the witness has been contradicted or corroborated by other evidence which you find credible and, in the end, you should give such weight to the testimony of each witness as, in your judgment, you feel it entitled to receive.

We have had a number of witnesses in this case who have qualified and testified as experts. An expert in a particular field is permitted to give his opinion in evidence. You are not bound by that opinion of the expert. You should consider his testimony in connection with the other evidence in the case and give it such weight as, in your judgment, you feel it is fairly entitled to receive.

In this connection, you should consider among other things the experience, training, and credibility of the expert witness, the extent to which he has had exposure and contact with the field concerning which he has given an opinion and with the problems with respect to which he has given an opinion.

I do want to say in passing that the Court requires the parties to indicate in advance of the case any possible witness that may be called. In this instance I believe both sides indicated that they may be calling certain experts who did not appear since Counsel found it inappropriate or [V-140] unnecessary as the case went forward. You should not draw any inference for or against either side in this controversy because a particular witness was or was not called.

There are in this case, as in many types of cases, two types of evidence from which you may find the truth as to the facts—they are what we call direct evidence and

what we call circumstantial evidence. Direct evidence is the testimony of someone who asserts actual knowledge of a fact, such as an eye-witness. Circumstantial evidence is proof of a chain of facts and circumstances indicating the guilt or innocense of a Defendant. The law makes no distinction between the weight to be given to either direct or circumstantial evidence—nor is a greater degree of certainty required of circumstantial evidence than of direct evidence. You should consider all of the evidence in the case, both direct evidence and circumstantial evidence.

Now I am going to turn to a discussion of the offense charged in this indictment. You will have a copy of the indictment with you in the jury room. I want to be sure you understand, and I want to emphasize, that the indictment raises no inference of guilt—the indictment is not evidence. The indictment is merely the method by which a defendant is brought to trial and apprised of the charges against him.

As I will indicate, and as I state to you now and as you will observe, there are thirty eight counts in this [V-141] indictment, each of them charging the same offense, namely, unlawful distribution and dispensing of controlled substance, a matter which I will discuss more fully with you in a moment, but from the standpoint of evidence, a separate offense is charged in each of these counts in the indictment and each offense and the evidence applicable thereto should be considered by you separately, and the fact that you may find the Defendant guilty or not guilty on one count of the indictment should not necessarily control your verdict with respect to any other count of the indictment.

The Defendant is charged with violation of the Controlled Substances Act which makes it unlawful for a prescribing physician—knowingly or intentionally—to dispense or distribute a controlled substance under certain circumstances.

In order to convict the Defendant you must find that the Government has proved each and every element of the offense beyond a reasonable doubt. Otherwise you must acquit him.

There are three essential elements of the offense charged in this indictment in each of these thirty eight counts and I propose to discuss each of these elements with you. The first essential element is that the Defendant distributed or dispensed a controlled substance.

Now, what is a controlled substance? As a matter [V-142] of law, methadone is a controlled substance. That is established by Statute, and it is undisputed that Dolaphine pills, concerning which you have heard evidence in this case, are a form of methadone and you may so find.

Next, what is meant by to dispense or to distribute? The term "dispense" means to deliver a controlled substance by prescribing a controlled substance to an ultimate user. The ultimate user is a person who has lawfully obtained and possesses a controlled substance for his own use or for the use of a member of his household.

The term distribute means to deliver a controlled substance other than by dispensing it.

Under the law, the mere issuance of a prescription by a doctor which is subsequently filled by a druggist, constitutes dispensing or distributing, whichever the case may be, because the prescription is essential before delivery can be completed by the pharmacist.

Secondly, it must be established that the Defendant acted knowingly and intentionally. The term "knowingly" as used in the offense charged, means that the act was done voluntarily and on purpose and not because of mistake or accident. Knowledge may be proved by the Defendant's conduct and by all the facts and circumstances surrounding the case. No person can avoid knowledge by purposely closing his eyes [V-143] to facts which should prompt him to investigate.

The term "intentionally" means that a person has the purpose to do a thing. It means that he made an act of the will to do the thing. It means that the thing was done consciously and voluntarily and not inadvertently or accidentally.

Of course, intent cannot always be proved directly because there is no way of fathoming and scrutinizing the operations of the human mind, but you may infer

as to the Defendant's intent from the surrounding circumstances.

You may consider any statement made, act done or omitted by the Defendant, and all other facts and circumstances in evidence which indicate his state of mind. You may infer that a person ordinarily intends the natural and probable consequences of acts which he knowingly does or knowingly omits doing. Of course, in this connection you must, among other things, weigh carefully the credibility of the Defendant and consider his statements as to his intent in the light of all the facts and circumstances as you may find them to be.

Thirdly, you must also find beyond a reasonable doubt that a physician, who knowingly or intentionally, did dispense or distribute by prescription, did so other than in good faith for detoxification in the usual course of a professional practice and in accordance with a standard of [V-144] medical practice generally recognized and accepted in the United States.

I am going to read that to you once again. You must find also beyond a reasonable doubt that a physician who knowingly or intentionally did dispense or distribute by prescription, did so other than in good faith for detoxification in the usual course of a professional practice and in accordance with a standard of medical practice generally recognized and accepted in the United States.

Now let me explain that to you further: The Law does not permit any physician to prescribe methadone for the purpose of continuing a person's dependence on an addictive drug, including a dependence on methadone. He can prescribe for, and only for, the purpose of detoxification and if, and only if, in good faith he proceeds in accordance with a standard of medical practice generally recognized and accepted in the United States.

Now, how do you determine "standard medical practice"? What is such a standard or standards for the purpose of this case? The standard is not to be determined by any arbitrary concept, but by the opinion of experts who have testified in this case. It is their testimony as to what is or is not a proper standard which counts.

You must not concern yourselves with what you think the standard of medical practice should be, but only with what it is.

[V-145] It is not what you think, nor what a particular doctor thinks should be done for addicts, or what is the best way or not the best way to stop crime. Good faith means an honest effort to prescribe for detoxification in accordance with a standard of medical practice generally recognized and accepted in the United States.

Mistake, of course, is not a breach of good faith. A doctor does not breach good faith by a mere error of judgment or because results are not as favorable as he expected or anticipated.

You need not agree with or believe in the standard practices of the profession, but must only be concerned with a good faith attempt to act according to them. Good faith is not merely a Doctor's sincere intention towards the people who come to see him, but rather it involves his sincerity in attempting to conduct himself in accordance with a standard of medical practice generally recognized and accepted in the United States.

In making these determinations, you should weigh all of the facts and circumstances, and not make a judgment because of any single fact or factor. The Government must establish beyond a reasonable doubt what is the standard or what are the standards of medical practice generally recognized and accepted in the United States for prescribing methadone for the purpose of de-toxification, and that what the [V-146] Defendant did was contrary to a good faith effort to comply with any such standard. If you are unable to find beyond a reasonable doubt on either of these factors, or whether Methadone was dispensed or distributed knowingly or intentionally by the Defendant, you must find the Defendant not guilty.

I do want to say to you, ladies and gentlemen, that this case has nothing whatever to do with whether or not a person may go to a private physician for drug treatment, and I am sure you recognize that.

The material brought to your attention concerning the Grand Jury proceedings on a number of occasions, and communications between the United States Attorney and

Dr. Moore, was brought to your attention for its bearing on Dr. Moore's knowledge and intention of good faith. He is not on trial for breaking any agreement or commitment he may have made to anyone in these Grand Jury proceedings. The proof only concerns his consciousness, if any, of what was considered a desirable standard of practice, and of drug maintenance and what drug maintenance may entail.

There has been a strong appeal made in this case, ladies and gentlemen, on both sides, to your sympathies or to your prejudices. You should bear in mind you are deciding nothing but this case. Your determination of the guilt or innocense of the Defendant must be reached solely on the basis of the evidence adduced at this trial, without [V-147] any feeling or emotion, without any bias or prejudice, without any anger on the one hand and without any sympathy on the other.

Experience teaches that if a Jury permits any feeling of bias or prejudice or any feeling of sympathy to enter into their determination of the verdict, then the Jury is not properly performing its function, and just is not done.

The question of possible punishment of Dr. Moore in the event of conviction is no concern of the Jury and should not enter into or influence your deliberations in any way. The duty of imposing sentence in the event of conviction rests exclusively upon this Court, and the Court has wide latitude in such matters. You should weigh the evidence in the case and determine the guilt or inocense of the Defendant solely on the basis of the evidence, without any consideration whatsoever of the matter of punishment.

You are directed that your verdict must be the considered judgment of each Juror. In order to return a verdict it is necessary for each Juror to agree thereto. Your verdict must be unanimous.

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[990] PROCEEDINGS

THE COURT: Mr. Brown, in Dr. Moore's case, I want first to take his arraignment on the bond-default indictment.

MR. BROWN: May we approach the bench on that, Your Honor?

THE COURT: No, what is on your mind?

MR. ALTO: May we approach the bench? I think it would be appropriate at the bench.

THE COURT: I don't like to do that.

MR. BROWN: I do think it is in order, if Your Honor please.

THE COURT: All right.

(Whereupon, counsel approached the bench and the following proceedings were held.)

MR. BROWN: If Your Honor please, when Mr. Alto advised me of the return of this indictment, I suggested to him what my viewpoints were as to the efficacy of such an indictment. He has given it some consideration and I think he has certain representations to make to the Court.

THE COURT: I am not going to take them up here at the bench. If you want to dismiss this indictment, you can dismiss it.

MR. ALTO: No, if Your Honor please, this is the proposal I tossed out to Mr. Brown.

Mr. Brown did point out something to me that I have [991] had time to think over with reference to the statute related to bond-jumping. With reference to that statute, in order to convict a person under it, it has to be a failure to appear before a court or judicial officer. I am afraid what we are dealing with here is that his next-required appearance was November 13.

THE COURT: I will take a not guilty plea and set it down later on.

MR. ALTO: I offered this to Mr. Brown. The breach of the conditions is clearly a contempt of Court and I

offered that to Mr. Brown. It could be that we could work it on the basis of an oral order to show cause why he shouldn't be held in contempt of this Court.

THE COURT: He is leaving for a Federal penitentiary this afternoon.

MR. ALTO: This all could be done today; and he will admit, as I understand from Mr. Brown, that he is guilty of that; and he could be treated accordingly. The maximum penalty for criminal contempt is, of course, six months.

Would that be acceptable to Your Honor?

THE COURT: That is agreeable to me.

MR. BROWN: That is agreeable to the defense.

MR. ALTO: This would dispose of the entire matter.

THE COURT: I think you ought to say that on the record. We have an audience here and I don't like to have any questions as to what lawyers are discussing with the Judge about [992] sentence. I will put it on the record. I will mention it to him.

MR. BROWN: Very well, sir.

MR. ALTO: All right.

(Whereupon, counsel resumed their places and the following proceedings were held.)

(Whereupon, the Defendant was brought into the courtroom.)

THE COURT: You can come up here, please, sir.

(Whereupon, the Defendant approached the lectern.)

THE COURT: Counsel, Dr. Moore, have just brought to my attention that there may be a technical problem with the indictment which was returned November 9, charging bond default. Before this indictment was returned, I had in mind discussing with you the fact that you were in contempt of the Court's order, which directed you to appear on Tuesday, after your conviction, for the purpose of surrendering your passport and posting additional bond.

The United States has indicated that it is agreeable to the United States if the matter is handled under the

contempt powers of the Court. Mr. Brown has indicated no objection to that procedure, if it is agreeable to you. The Court is quite prepared to deal with this matter under the Court's contempt powers, and that would result, if we went that way, in the indictment being dismissed. I would have power to impose a [993] sentence for contempt, in addition to the sentence that is about to be imposed on the main case, not to exceed six months.

What I want to ask you is simply this: You understood, did you not, that you were required to report on Tuesday?

DEFENDANT MOORE: Yes, I did.

THE COURT: To post bond and surrender your passport?

DEFENDANT MOORE: Yes, I did.

THE COURT: Have you any objection to the matter being handled in this manner?

DEFENDANT MOORE: No, Your Honor, I don't.

THE COURT: Well, I will then find you in contempt and the question of what the penalty shall be, I will consider at the time I talk with both you and Mr. Brown on the other sentence, and you can cover any aspect of that matter, as well, so that I can take both matters into consideration at the same time.

MR. BROWN: That is perfectly satisfactory.

THE COURT: Now, Mr. Brown, is there anything that you wish to say with respect to this matter before sentence is imposed?

MR. BROWN: Yes, if Your Honor please.

We are, of course, aware that the Court has a full and comprehensive probation report in this matter. I would like to add simply a few comments for Your Honor's consideration prior to imposing sentence.

[994] We all appreciate that the charges of which Dr. Moore has been convicted are very serious charges. I think I can state quite candidly, however, that the interpretation to be placed upon Dr. Moore's actions is one of interpretation and is not necessarily representative of truth.

Your Honor will note, from having heard this trial in its entirety, that Dr. Moore's offense was not a furtive

one. It was not committed in secret. There was nothing done on the part of this Defendant which would suggest that responsibility for his conduct was attempting to be dodged. He kept full records on his activities. Indeed, it was those very records which served to insure his conviction, regarding the amounts of methadone dispensed and to whom. There were no fictitious names utilized by Dr. Moore with reference to his patients. All of these matters were kept by him; and it was those matters that were made vailable for trial.

Dr. Moore's approach to the treatment of narcotic addiction, obviously, from his own testimony, involved a saturation to a point of blockade, in which the euphoria formerly obtained was no longer obtained from heroin and an incentive to become completely drug-free. It was apparently established, if Your Honor please, that Dr. Moore's methods were not in accord with acceptable medical standards.

I recall to the Court's attention that approximately two of the Government's witnesses who testified that they had [995] been so saturated with methadone at a later time were able to become completely drug-free. This may mean nothing. It may, in fact, be significant of nothing. I would proffer to the Court, however, that it does at least suggest that Dr. Moore's approach was not completely without merit.

Quite understandably, Your Honor's appraisal of the issues presented in this case, as to whether or not there are substantial questions of law involved, would have a serious effect on the sentence this Court sees fit to impose. That is, of course, a matter into which we cannot delve at this point. I rely then solely upon the matters which have been presented to the Court and ask that Your Honor be as lenient as possible under the circumstances.

THE COURT: Dr. Moore, is there anything you wish to say to the Court before sentence is imposed?

DEFENDANT MOORE: I have quite a bit to say, but to bring it down, to make it reasonable, without wishing to belabor the Court any, if I seem to be redundant in certain testimony I brought out during trial by myself, I felt that the approach that I did adopt to the

treatment of heroin addiction was a reasonable one, was a necessary one, was, in fact, really needed. The existing methods in this area, not only of medicine but of this area of the country left quite a bit lacking in the competent treatment of drug addiction. This was a method that was not arrived at just by chance, that came about after almost three and [996] a half years work, of constantly changing, changing again, attempting to refine the method, reading, a great deal of research and reading was undertaken on my part, to bring this method into focus. Different programs, different other methods were borrowed from, in order to try to make this a method that could be used by a physician for his patients to be treated on an ambulatory basis, that is, an out-patient basis, as opposed to putting a patient into a hospital and treating him.

I feel that this was accomplished, even if we go so far as to take the witnesses for the Government, each and every one of them did admit, though they did admit other things, had a lot else to say,—how much weight really would be put on the testimony, this is to be argued —but one fact, one common thread ran through all of their testimony, that is, the testimony of the various witnesses that were addicted to heroin: Number one, first, they came to me asking for help; number two, each and every single one of them was addicted to heroin when I started treatment. This was borne out by my physical examination and/or laboratory tests. During the period that they were associated with my office at 1518 9th Street, Northwest, all of these patients admitted under oath that they had no further, no use, or had no desire to use heroin, and thereby find themselves back in the position of having to perform various—the various activities, criminal acts, dehumanizing acts, in order to raise large sums of money in order to continue a heroin habit.

[997] All of these witnesses admitted that our association led them away from heroin and into methadone. This was the prime thrust of my work on 9th Street. I felt and I still feel that such a thrust is necessary if any advances are to be made in this particular field.

Anything that I would say would be redundant. I think it was in my testmiony at trial. I did testify for a whole day, attempting not to put my theories out but theories of other physicians who have worked in this field, both in this country and out of this country. These theories, I feel to be valid, since we are dealing with the same drug, that is, heroin, and being that as it is, that is, the nature of the drug, the nature of the disease that we were fighting, and I feel that during the time that I was allowed to function—in fact, I know this, this has gone past belief with me now, this is just a knowledge that I have now—that those patients that did do exactly as they were directed did benefit greatly.

I have no problem further with the idea of those cases presented here by the prosecution. As mentioned for the record, I have treated, I think, over three and a half, almost four years, between 25 and 40 thousand patients in my office. I think the original indictment read 639 counts. It was eventually reduced to, I think, between 30 and 40. I don't remember the exact number. These were the cases that were presented here in the courtroom.

[998] To me, as the treating physician, in each of these cases, I considered these to be my problem cases. Those were patients that needed extra attention, extra case, extra attentiveness on my part; and this they did receive.

The gross majority of my patients could be handled. It was to me, since I was the treating physician, that is, I, who had to come to a medical decision, an ethical medical decision, one that I thought was ethical, and purely medical in context, to help all of the patients that I did treat for this particular disease; and this, I can honestly say, was undertaken by me during the time that I was allowed to treat these persons who, unfortunately, had become afflicted with this disease, that is, heroin addiction.

THE COURT: Is there anything that either of you wish to say concerning the contempt matter? Mr. Brown, you didn't cover that. Is there anything you wish to say?

MR. BROWN: I am sorry. Yes, if Your Honor please.

There, of course, can be no denial, as we have indicated to the Court, that Dr. Moore is in contempt of Court for failure to satisfy the conditions set by this Court in surrendering his passport and setting his $25,000 bond.

I think it is unfortunate, and not necessarily so from the standpoint of our own personal interest, but in terms of representing Dr. Moore, that I, myself, have never been threatened [999] with the utter, complete destruction that this man obviously faces. As Your Honor knows in the background information given to you, Dr. Moore has had no prior brushes with the law other than the one previously involving his practice and this matter for which he stands convicted. But he has no criminal background. He has come from a good family. He has worked hard to get through school. And to this point, he has done well with his practice.

To suddenly find himself, if Your Honor please, faced with the enigma of almost certain destruction, to find himself suddenly faced with representations given, albeit in good faith by the Prosecutor, that a number of other investigations are being conducted with reference to seeking to further convict this man of other offenses, I think it lends itself to a state of mind of utter panic, if Your Honor please, utter panic which perhaps is not justified, which is, nevertheless, understandable.

This man, in fleeing, as he did, fled not just to avoid consequences he thought he might face, but fled for his inner survival. Once he found himself, if Your Honor please, in an atmosphere where the overt pressure was not as imminently present upon him, where there were open to him the options of either resigning himself to whatever this Court and other law-enforcement officials sought to do, as against running off still yet to another environment where nothing could happen, it became easier for him to make a decision within himself as to what it [1000] was Dr. Moore wanted to do.

It was for those reasons, if Your Honor please, that I believe Dr. Moore left; and it was for the latter reasons that he returned. Because he made up his mind as to what he wanted to do.

I think the fact that he did return says a lot about the man, himself. It presupposes his commitment to accept the sentence of this Court, and to accept the processes of law-enforcement agencies as they expect to bring upon him.

I can only say to the Court that Dr. Moore was a man afraid, so frightened by a bulwark of investigation of which he had never before encountered that he simply lost control. But he has now regained that control and he is here before this Court voluntarily.

I would like to state also for the record, if Your Honor please, there was considerable representation immediately upon Dr. Moore's return that he had been rejected by the Danish Government; and that was not true. We defy any Government official or agency to present to this Court any affidavit or request for permanent residency presented to the Danish Government. That simply was not done. No application for residency was ever made. Dr. Moore was not deported. His passport was not lifted. He was not listed as a deportee. And he had at the time of catching his plane to the United States the option available to him of going to at least five other countries, [1001] visas for which were contained in his passport at that time. His return to this Court was voluntarily on the basis of his own soul-searching.

Beyond that, I think we can offer nothing more.

THE COURT: Anything you want to say about that aspect of it, Dr. Moore?

DEFENDANT MOORE: No, Your Honor, I think he covered it in bulk pretty well.

THE COURT: The Court has, as you know, Mr. Brown, not followed the practice of commenting on information given at allocution. I do feel, however, required simply to state that I do not view this case as a medical case. I view this case as a case involving a major narcotic drug pusher who deliberately violated the law for profit. I impose a sentence accordingly.

On Counts 3, 5, 7, 8, 9, 13, 14, 27, 29, 30, 31, 32, 35 and 37, I impose a sentence of five-to-fifteen years.

On the counts involving juveniles, 16, 17, 18, 20, 21, 23, 24 and 25, I impose a sentence of ten-to-thirty years. The sentences on the juveniles of ten-to-thirty years are to be consecutive to the sentences imposed for the adults, making a jail sentence of fifteen-to-forty-five years.

I impose on each of the adult counts, in addition, a committed fine of $5,000, for a total of $70,000; and on each of the juvenile counts, a fine of $10,000, for a total of $80,000, making the total fine $150,000.

[1002] In addition, I impose a special parole term of twelve years for each count, to run concurrently on all counts, imposing it pursuant to 21 U.S. Code 841(c).

In addition, the Defendant's license to practice medicine in the District of Columbia is revoked, pursuant to 2 D.C. Code 131.

I direct that Dr. Moore be taken forthwith to a Federal penitentiary.

That is the sentence of the Court.

MR. ALTO: If Your Honor please, is sentence going to be imposed—

THE COURT: I can impose a sentence now for contempt, of three months, consecutive to the sentence imposed.

MR. ALTO: May all remaining charges be dismissed, if Your Honor please.

THE COURT: Yes.

You have a right to appeal, Dr. Moore. You will have to file your appeal within ten days. Mr. Brown will advise you with respect to those aspects of the matter.

(Whereupon, the proceedings were concluded.)

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[GOVERNMENT EXHIBIT 31]

STEIN AND MITCHELL
ATTORNEYS AT LAW

1200 Eighteenth Street, N.W.
Washington, D.C. 20036

October 26, 1970

Seymour Glanzer
Chief, Fraud Unit
Room 3136-C
United States Court House Building
3rd and Constitution Avenue, N.W.
Washington, D.C. 20001

Re: *Thomas W. Moore, Jr., M. D.*

Dear Mr. Glanzer:

I certainly do appreciate your help in the above matter and you and your staff have given considerable time to the problem in which we are all attempting to fashion a resolution which would not deprice Dr. Moore of an opportunity to serve the community within the framework of the law.

Inasmuch as there was no transcript of our meeting I made a memorandum of it in the form of the enclosed letter which was sent to Dr. Moore.

Again, let me thank you for your consideration.

Sincerely yours,

/s/ Jacob A. Stein
JACOB A. STEIN

JAS/ap
Enclosure

October 23, 1970

Thomas W. Moore, Jr., M. D.
278 M Street, S. W.
Washington, D. C.

Dear Mr. Moore:

I wish to state again in writing that you should not discuss your appearance before the Grand Jury or your talks with Mr. Glanzer in any way. The matter is still in suspense and comments by you could affect the outcome. I hope you will rely on my judgment in this and repress any desire that you have to make public statements concerning the subjects which were discussed with Mr. Glanzer in his office and before the Grand Jury.

I would also like to give you my understanding of what the governmental regulatory agencies require based upon the discussions with Mr. Glanzer and the material which I have collected. These requirements are as follows:

1. A medical history must be obtained which includes the history of the addiction and the type of drug or drugs which the victim uses.
2. A reasonable thorough physical examination of the patient.
3. The names of other physicians who have treated or are treating the patient should be obtained and lines of communication established so that there will be no duplication of prescriptions.
4. A urinalysis should be used to determine if the victim is an addict and drugs are being used contemporaneously with the methadone treatment.
5. The time and amount of the last dosage should be recorded.
6. The physician should give attention to other medical problems of the patient such as liver disorders, etc.
7. The physician should determine if there are any psychiatric disorders which need treatment and if psychotherapy is necessary.

8. The physician should evaluate needle marks to determine the age of the needle marks and the manner in which drugs are taken.
9. The patient should be advised that methadone is an addictive drug and as an addictive drug is dangerous and cannot be used unless used carefully.
10. The correct name of the patient should be verified and identification should be secured. This should be done because the physician is dealing with a dangerous drug.
11. The physician should not treat minors under twenty-one years of age without the consent of parents if that consent can be reasonably obtained.
12. Since there are dangers with respect to self administration the physician should not give large quantities of drugs. Unless the drug is being taken in the presence of the physician or his nurse a prescription should be so small that it represents only a daily dosage. This is to prevent a diversion of the drug. There is danger with respect to dosage larger than a daily dose because it may be shot up immediately or may be diverted.
13. The physician must have in mind that in dealing with methadone he is dealing with a drug which has been classified under the Harrison Act and he is subject to the provisions of that Act which requires him to take the steps listed above to prevent diversion or unsupervised usage. There is some evidence that one who attempts to withdraw from methadone addiction will find it as difficult or more difficult as withdrawal from heroin.
14. Methadone programs do serve a valuable function, however, they must be conducted within the framework given above.

It is also my understanding that you will strictly comply with Medicaid and Medicare provisions when and if you are reinstated.

I have set all this out, Dr. Moore, so you will understand what I drew from the several conference with Mr. Glanzer. All who have been concerned with this case including the representatives of the U. S. Attorney's Office feel that you have a great deal to offer the community, how-

ever, the service can only be rendered in a fruitful way if it is done well within the confines of the law.

I hope that the matter will terminate without an indictment and that you can perform the service which all of us feel you are capable of.

Sincerely yours,

/s/ Jacob A. Stein
JACOB A. STEIN

JAS/ap

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Criminal No. 1350-72

UNITED STATES OF AMERICA

v.

THOMAS W. MOORE, JR.

On this 13th day of November, 1972, came the attorney for the government and the defendant appeared in person and by counsel, Edwin Brown and Henry Lincoln Johnson.

IT IS ADJUDGED that the defendant upon his plea of not guilty, and a verdict of guilty has been convicted of the offense of UNLAWFUL DISTRIBUTION AND DISPENSATION OF CONTROLLED SUBSTANCE as charged in Counts 3, 5, 7, 8, 9, 13, 14, 16, 17, 18, 20, 21, 23, 24, 25, 27, 29, 30, 31, 32, 35, and 37 of the retyped indictment and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of FIVE (5) YEARS to FIFTEEN (15) YEARS on counts 3, 5, 7, 8, 9, 13, 14, 27, 29, 30, 31, 32, 35, and 37 and TEN (10) YEARS to THIRTY (30) YEARS on counts 16, 17, 18, 20, 21, 23, 24, and 25; said sentences to run consecutive. Total sentence of FIFTEEN (15) YEARS to FORTY-FIVE (45) YEARS.

In addition there is a fine imposed on each of counts 3, 5, 7, 8, 9, 13, 14, 27, 29, 30, 31, 32, 35, and 37 of FIVE THOUSAND ($5,000.00) DOLLARS for a total of SEVENTY THOUSAND ($70,000.00) DOLLARS and on each of counts 16, 17, 18, 20, 21, 23, 24, and 25 there is imposed a fine in the amount of TEN THOUSAND ($10,000.00) DOLLARS for a total of EIGHTY THOUSAND ($80,000.00) DOLLARS for a grand total of ONE HUNDRED FIFTY THOUSAND ($150,000.00) DOLLARS.

A specal parole term of TWELVE (12) YEARS for each count to run concurrently on all counts is imposed pursuant to Title 21 United States Code 841(c).

IT IS FURTHER DIRECTED that the defendant's license to practice medicine in the District of Columbia is revoked pursuant to Title 2, DCC 131.

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

THE REMAINING COUNTS ARE HEREBY DISMISSED.

/s/ Gerhard A. Gesell
United States District Judge

IT IS FURTHER DIRECTED that the defendant be taken forthwith to a Federal Penitentiary.

True certified copies of above Judgment and Commitment delivered to U. S. Marshal for the District of Columbia this 13 day of _____.

JAMES F. DAVEY
Clerk

By _____
Deputy Clerk

A TRUE COPY, Certified this 13th day of November, 1972.

JAMES F. DAVEY
Clerk

By /s/ Iva M. Hess
Deputy Clerk

SUPREME COURT OF THE UNITED STATES

No. 74-759

UNITED STATES, PETITIONER

v.

THOMAS W. MOORE, JR.

ORDER ALLOWING CERTIORARI—Filed February 18, 1975

The petition herein for a writ of certiorari to the United States Court of Appeals for the District of Columbia Circuit is granted.

Mr. Justice Douglas took no part in the consideration or decision of this petition.

☆ U. S. GOVERNMENT PRINTING OFFICE: 1975 572212 139